

In The  
**Supreme Court of the United States**

October Term, 1994

CITY OF EDMONDS,

*Petitioner,*

v.

WASHINGTON STATE BUILDING  
CODE COUNCIL, et al.,

*Respondents,*

and

UNITED STATES OF AMERICA.

On Writ Of Certiorari To The United States  
Court Of Appeals For The Ninth Circuit

**JOINT APPENDIX**

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and Herb Hamilton  
RIDDELL, WILLIAMS, BULLITT  
& WALKINSHAW  
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(206) 624-3600

**Petition For Certiorari Filed 6/13/94  
Certiorari Granted 10/31/94**

254P

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GENERAL DOCKET FOR  
Ninth Circuit Court of Appeals

Filed: 9/29/92

Court of Appeals Docket #: 92-36735  
Nsuit: 1443 Accommodations (USpl)  
USA v. City of Edmonds  
Appeal from: Western District of Washington (Seattle)

---

Case type information:

- 1) civil
  - 2) US
  - 3)
- 

Lower court information:

District: 0981-2: CV-91-1273-WLD lead: CV-91-215-WLD  
presiding judge: William L. Dwyer, District Judge  
Date Filed: 2/13/91  
Date order/judgment: 7/15/92  
Date NOA filed: 9/14/92

---

Fee status: USA: no fee required

---

Prior cases:

None

Current cases:

Lead	Member	Start	End
consolidated:			
92-36640	92-36735	9/29/92	

Proceedings include all events,  
92-36735 USA v. City of Edmonds

9/29/92 DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. CADS SENT (Y/N: y. setting schedule as follows: CADS due 10/13/92 for Robert S. Berman; appellant's designation of RT is due 9/24/92; appellee's designation of RT is due 10/5/92; appellant shall order transcript by 10/14/92; court reporter shall file transcript in DC by 11/16/92; certificate of record shall be filed by 11/23/92; appellant's opening brief is due 12/31/92; appellees' brief is due 1/30/93; appellant's reply brief is due 14 days from service of the answering brief. [92-36735] (jlc) [92-36735]

9/29/92 FILED CERTIFICATE OF RECORD ON APPEAL RT filed in DC N/A [92-36735] (jle) [92-36735]

10/13/92 Received notice of appearance of Irving Gornstein as counsel for USA (CASEFILE) [92-36735] (sm) [92-36735]

10/13/92 Filed Irving Gornstein for Appellant USA's Civil Appeals Docketing Statement served on 10/9/92 (to CONFATT) [92-36735] [92-36735] (sm) [92-36735]

11/2/92 Case released from Pre-Briefing Conference program. (jr) [92-36728 92-36729 92-36735 92-36778]

12/8/92 Filed order (Deputy Clerk: cb) Granting joint motion to consolidate cases. Setting schedule as follows: appellants' opening brief, excerpts due 12/31/92, appellees'

brief is due 2/1/93. The optional reply briefs are due 14 days from service of the answering brief. [92-36640, 92-36735] (sf) [92-36640 92-36735]

12/20/92 Filed The American Assoc in 92-36640's motion to become amicus; served on 12/29/92. [92-36640, 92-36735] (sf) [92-36640 92-36735]

12/28/92 10 day oral extension by phone of time to file Appellant Oxford House, Inc., Appellant Oxford House-Edmonds, Appellant Herb Hamilton brief. [92-36735, 92-36640] appellants' brief due 1/11/93; appellees' brief due 2/10/93 the optional reply brief due 14 days from service of the answering brief. (mag) [92-36640 92-36735]

12/31/92 Received Amicus The American Assoc in 92-36640's brief in 15 copies of 25 pages; deficient: pending motion; served on 12/29/92 Notified counsel. [92-36640, 92-36735] (sf) [92-36640 92-36735]

1/11/93 Filed Appellee City of Edmonds in 92-36640, Appellant USA in 92-36735 response opposing motion & order to extend time to file appellant's opening brief [2276195-1] in 92-36735, 92-36735 served on 1/8/93 (MOOT) (CASEFILE) [92-36640, 92-36735] NOTE: referred to CIVAT on 1/29/93 by promo re: response request dismissal. (sf) [92-36640 92-36735]

1/12/93 Filed motion and deputy clerk order; (Deputy Clerk; ra) The government's motion for an extension of time in which to file the opening brief is granted in part. The government's opening brief is due 1/21/92.



- Aple's brief is due 2/22/93. The optional reply brief is due 14 days from service of the answering brief. (Motion recvd 1/4/93) [92-36640, 92-36735] (sf) [92-36640 92-36735]
- 1/12/93 Filed original and 15 copies Appellant Oxford House, Inc. in 92-36640. Appellant Oxford House-Edmonds in 92-36640, Appellant Herb Hamilton in 92-36640 opening brief (Informal: n) 43 pages and five excerpts of record in 1volumes; served on 1/11/93 [92-36640, 92-36735] (sf) [92-36640 92-36735]
- 1/14/93 Filed Washington State Department of Social and Health Services, Division of Alcohol and Substance Abuse motion to become amicus curiae. (CIVAT per promo re: response filed 1/11/93 requested dismissal of the Government's case and has been referred to CIVAT.) [92-36640, 92-36735] served on 1/11/93 [2278714] (sf) [92-36640 92-36735]
- 1/14/93 Received Amicus Washington State in 92-36640's brief in 15 copies of 39 pages; deficient: motion pending; served on 1/11/93 Notified counsel. [92-36640, 92-36735] (sf) [92-36640 92-36735]
- 1/15/93 Filed order (John T. NOONAN); The American Association of Retired Person's motion to file an amicus brief, and any related filing shall be referred for disposition to the merits panel. [92-36640, 92-36735] (sf) [92-36640 92-36735]
- 1/22/93 Filed original and 15 copies Appellant USA in 92-36735 opening brief (Informal: n) 21

- pages and five excerpts of record in 0 volumes; served on 1/21/93 (Excerpts filed in consolidated appt's brief) [92-36640, 92-36735] (sf) [92-36640 92-36735]
- 1/25/93 Received correct mailing address for counsel Robert I. Heller. (CASEFILE) [92-36640, 92-36735] (sf) [92-36640 92-36735]
- 1/25/93 Rec'd notice of appearance of Heller Robert [92-36640, 92-36735] (sf) [92-36640 92-36735]
- 2/24/93 Filed original and 15 copies appellee City of Edmonds in 92-36640, City of Edmonds in 92-36735's 38 pages brief, 1 Exc. vols: ; served on 2/22/93 [92-36640, 92-36735] (sf) [92-36640 92-36735]
- 3/12/93 Filed original and 15 copies USA's reply brief, (Informal: n) 9 pages; served on 3/11/93 [92-36735, 92-36640] (sm) [92-36640 92-36735]
- 3/12/93 Filed original and 15 copies Herb Hamilton in 92-36640, Oxford House-Edmonds in 92-36640, Oxford House, Inc. in 92-36640 reply brief of 21 pages; served on 3/11/93 [92-36640, 92-36735] (jlc) [92-36640 92-36735]
- 4/26/93 Filed order (Alfred T. GOODWIN, Mary M. SCHROEDER, William C. CANBY); Aple City of Edmonds motion to dismiss appeal no. 92-36735 for failure to prosecute is denied. The motion by the Washington State Department of Social and Health Service, Division of Alcohol and Substance Abuse to file an amicus brief is referred to the panel that considers consolidated appeals on the merits. [92-36640, 92-36735] (sf) [92-36640 92-36735]

4/29/93 Calendar check performed [92-36640, 92-36735] (th) [92-36640 92-36735]

10/26/93 Calendar materials being prepared. [92-36640, 92-36735] [92-36640, 92-36735] (aw) [92-36640 92-36735]

11/3/93 CALENDARED: Seattle January 5, 1994 9:00 a.m. Courtroom Park Place [92-36640, 92-36735] (mw) [92-36640 92-36735]

12/2/93 Filed order (Deputy Clerk: jc) The court has received motions for leave to submit briefs amicus curiae from the American Association of Retired Persons and the Washington State Department of Social and Health Service et al. The motion are GRANTED and the briefs heretofore lodged with the clerk of the court are ordered to be filed. in 92-36640, 92-36735 [92-36640, 92-36735] (PHONED AT 2:15 PM) (sf) [92-36735]

12/2/93 Filed order (Deputy Clerk: jc) The court has received motions for leave to submit briefs amicus curiae from the American Association of Retired Persons and the Washington of State partment of Social and Health Services, et al. The motion are GRANTED and the briefs heretofore lodged with the clerk of court ordered to be filed. (PHONED AT 2:15 PM) [92-36640, 92-36735] (sf) [92-36640 92-36735]

12/10/93 Rec'd notice of appearance of Gregory Friel [92-36640, 92-36735] (sf) [92-36640 92-36735]

12/14/93 Filed certified record on appeal in 4 Vols. (total): 0 Clerks Rec 4 RTs (ORIG) [92-36640, 92-36735] [92-36640, 92-36735] (sf) [92-36640 92-36735]

12/17/93 Received notice of appearance of Rebecca K. Troth (Withdrew as counsel: attorney Gregory B. Friel for USA) (CASEFILE) [92-36735] (sm) [92-36735]

12/17/93 Received notice of appearance of Rebecca K. Troth as counsel for USA (CASEFILE) [92-36735] (sm) [92-36735]

12/29/93 Received Herb Hamilton, Oxford House-Edmonds Oxford House, Inc. additional citations, served on 12/27/93 (PANEL) [92-36640, 92-36735] (sf) [92-36640 92-36735]

1/3/94 Received Herb Hamilton, Oxford House-Edmonds, Oxford House, Inc. additional citations, served on 12/28/93. (COPIES SENT DIRECTLY TO DEPUTY CLERK IN SEATTLE FOR PANEL) [92-36640, 92-36735] (sf) [92-36640 92-36735]

1/5/94 SUBMITTED ON THE BRIEFS TO: Eugene A. WRIGHT, William C. CANBY, Thomas G. NELSON, [92-36640, 92-36735] (tsp) [92-36640 92-36735]

2/10/94 Received Oxford House, Inc. additional citations, served on 2/8/94 (PANEL) [92-36640, 92-36735] (sf) [92-36640 92-36735]

2/17/94 Received City of Edmonds, City of Edmonds additional citations, served on 2/14/94 (CIVATT) [92-36640, 92-36735] (sf) [92-36640 92-36735]

3/14/94 FILED OPINION, REVERSED AND REMANDED (Terminated on the Merits after Submission Without Oral Hearing; Reversed; Written, Signed, Published, Eugene A. WRIGHT, author; William C. CANBY; Thomas G. NELSON,) FILED AND

ENTERED JUDGMENT. [92-36640, 92-36735] (ft) [92-36640 92-36735]

4/6/94 MANDATE ISSUED [92-36640, 92-36735] (jr) [92-36640 92-36735]

7/12/94 Received notice from Supreme Court: petition for certiorari filed Supreme Court No. 94-23 filed on 6/13/94. [92-36640, 92-36735] (crw) [92-36640 92-36735]

11/4/94 Filed Supreme Court order (SC Date: 10/31/94) Granting certiorari petition. [92-36640, 92-36735] (sf) [92-36640 92-36735]

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GENERAL DOCKET FOR  
Ninth Circuit Court of Appeals

Filed: 8/18/92

Court of Appeals Docket #: 92-36640  
Nsuit: 3443 Accomodations (Fed)  
City of Edmonds, et al v. WA State Bldg. Code, et al  
Appeal from: Western District of Washington (Seattle)

---

Case type information:

- 1) civil
  - 2) private
  - 3)
- 

Lower court information:

District: 0981-2: CV-91-215-WLD  
presiding judge: William L. Dwyer, District Judge  
Date Filed: 2/13/91  
Date order/judgment: 7/15/92  
Date NOA filed: 8/12/92

---

Fee status: paid

---

Prior cases:

None

Current cases:

	Lead	Member	Start	End
consolidated:				
	92-36640	92-36735	9/29/92	



Proceedings include all events,  
92-36640 City of Edmonds, et al. v. WA State  
Bldg. Code, et al

8/18/92 DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. CADS SENT (Y/N): y; setting schedule as follows: CADS due 9/1/92 for Scott E. Schrum; appellant's opening brief is due 11/30/92, appellees' brief is due 12/28/92; appellants' reply brief is due 1/11/93. [92-36640] (mag) [92-36640]

8/18/92 Filed certificate of record on appeal RT filed in DC (7/15/92) [92-36640] (mag) [92-36640]

9/3/92 Filed attorney for Appellant Civil Appeals Docketing Statement served on 8/31/92 (to CONFATT) [92-36640] [92-36640] (sf) [92-36640]

9/10/92 Received copy of transcript order form from attorney Scott E. Schrum. (CASEFILE) [92-36640] (sf) [92-36640]

9/28/92 Case released from Pre-Briefing Conference program. (rv) [92-35376 92-36551 92-36562 92-36568 92-36571 92-36602 92-36614 92-36617 92-36626 92-36628 92-36631 92-36634 92-36637 92-36638 92-36640 92-36645 92-36655 92-36657 92-36666 92-36679]

11/24/92 Filed stipulation motion to consolidate cases. (PROMO) [92-36640] served on 11/20/92 (sf) [92-36640]

12/8/92 Filed order (Deputy Clerk: ob) Granting joint motion to consolidate cases. Setting schedule as follows: appellants' opening brief, excerpts due 12/31/92. appellees'

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1/12/93 Filed motion and deputy clerk order: (Deputy Clerk: ra) The government's motion for an extension of time in which to file the opening brief is granted in part. The government's opening brief is due 1/21/92.

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- 1/25/93 Received correct mailing address for counsel Robert I. Heller, (CASEFILE) [92-36640, 92-36735] (sf) [92-36640 92-36735]
- 1/25/93 Rec'd notice of appearance of Heller Robert [92-36640, 92-36735] (sf) [92-36640 92-36735]
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- 4/26/93 Filed order (Alfred T. GOODWIN, Mary M. SCHROEDER, William C. CANBY): Aple City of Edmonds motion to dismiss appeal no. 92-36735 for failure to prosecute is denied. The motion by the Washington State Department of Social and Health Service, Division of Alcohol and Substance Abuse to file an amicus brief is referred to the panel that considers consolidated appeals on the merits. [92-36640, 92-36735] (sf) [92-36640 92-36735]



4/29/93 Calendar check performed [92-36640, 92-36735] (th) [92-36640 92-36735]

10/26/93 Calendar materials being prepared. [92-36640, 92-36735] [92-36640, 92-36735] (aw) [92-36640 92-36735]

11/3/93 CALENDARED: Seattle January 5, 1994 9:00 a.m. Courtroom Park Place [92-36640, 92-36735] (mw) [92-36640 92-36735]

12/2/93 Filed order (Deputy Clerk: jc) The court has received motions for leave to submit breifs amicus curaie from the American Association of Retired Persons and the Washington of State partment of Social and Health Services, et al. The motion are GRANTED and the briefs heretofore lodged with the clerk of court ordered to be filed. (PHONED AT 2:15 PM) [92-36640, 92-36735] (sf) [92-36640 92-36735]

12/10/93 Rec'd notice of appearance of Gregory Friel [92-36640, 92-36735] (sf) [92-36640 92-36735]

12/14/93 Filed certified record on appeal in 4 Vols. (total): 0 Clerks Rec 4 RTs (ORIG) [92-36640, 92-36735] [92-36640, 92-36735] (sf) [92-36640 92-36735]

12/29/93 Received Herb Hamilton, Oxford House-Edmonds Oxford House, Inc. additional citations, served on 12/27/93 (PANEL) [92-36640, 92-36735] (sf) [92-36640 92-36735]

1/3/94 Received Herb Hamilton, Oxford House-Edmonds, Oxford House, Inc. additional citations, served on 12/28/93. (COPIES SENT DIRECTLY TO DEPUTY CLERK IN SEATTLE FOR PANEL) [92-36640, 92-36735] (sf) [92-36640 92-36735]

1/5/94 SUBMITTED ON THE BRIEFS TO: Eugene A. WRIGHT, William C. CANBY, Thomas G. NELSON. [92-36640, 92-36735] (tsp) [92-36640 92-36735]

2/10/94 Received Oxford House, Inc. additional citations, served on 2/8/94 (PANEL) [92-36640, 92-36735] (sf) [92-36640 92-36735]

2/17/94 Received City of Edmonds, City of Edmonds additional citations, served on 2/14/94 (CIVATT) [92-36640, 92-36735] (sf) [92-36640 92-36735]

3/14/94 FILED OPINION: REVERSED AND REMANDED (Terminated on the Merits after Submission Without Oral Hearing; Reversed; Written, Signed, Published, Eugene A. WRIGHT, author; William C. CANBY; Thomas G. NELSON.) FILED AND ENTERED JUDGMENT. [92-36640, 92-36735] (ft) [92-36640 92-36735]

4/6/94 MANDATE ISSUED [92-36640, 92-36735] (jr) [92-36640 92-36735]

7/12/94 Received notice from Supreme Court: petition for certiorari filed Supreme Court No. 94-23 filed on 6/13/94. [92-36640, 92-36735] (crw) [92-36640 92-36735]

11/4/94 Filed Supreme Court order (SC Date: 10/31/94) Granting certiorari petition. [92-36640, 92-36735] (sf) [92-36640 92-36735]

---



Docket as of November 7, 1994 10:17 pm

Proceedings include all events.

2:91cv215 Edmonds, City of, et al v. US Dept of Housing  
et al

TERMED  
ONSOL DISC  
MTNDDL CMPY  
TERMED CONSOL  
DISC MTNDDL  
CMPY

U.S. District Court  
U.S. District Court - Western Washington (Seattle)  
CIVIL DOCKET FOR CASE #: 91-CV-215

Edmonds, City of, et al v.

US Dept of Housing et al

Filed: 02/13/91

Assigned to: Judge William L. Dwyer

Demand: \$0,000

Nature of Suit: 443

Lead Docket: None

Jurisdiction: US Defendant

Dkt# in other court: None

Cause: 42:405 Fair Housing Act

EDMONDS CITY OF, a  
municipal corporation  
plaintiff

Mark R. Bucklin  
623-8861  
[COR LD]  
KEATING, BUCKLIN &  
McCORMACK P.S.  
800 5th Ave.  
4141 SeaFirst 5th Ave.  
Plaza  
Seattle, WA 98104  
623-8861

Phillip C. Raymond  
447-7000

[COR LD NTC]

Walter Scott Snyder  
447-7000

[COR LD NTC]

OGDEN, MURPHY &  
WALLACE

1601 5TH AVE

2100 WESTLAKE CENTER  
SEATTLE, WA 98101-1686  
447-7000

EVERETT CITY OF, a  
municipal corporation  
plaintiff

Phillip C. Raymond  
(See above)

[COR LD NTC]

Walter Scott Snyder  
(See above)

[COR LD NTC]

UNITED STATES OF  
AMERICA  
plaintiff

Susan L. Barnes  
442-5196

[COR LD]

U. S. ATTORNEY'S  
OFFICE

800 5TH AVE

STE 3600

SEATTLE, WA 98104  
553-7970

Howard R Griffin  
202-514-4741

[COR LD]

U. S. DEPARTMENT OF  
JUSTICE

Civil Rights Division

10th St. at Constitution  
Ave. N.W.

Washington DC 20530  
202-514-4741

v.

DEPARTMENT OF  
HOUSING AND URBAN  
DEVELOPMENT  
defendant  
[term 06/10/91]

Howard R Griffin  
[term 06/10/91]  
202-514-4741  
[COR LD NTC]  
U. S. DEPARTMENT OF  
JUSTICE  
Civil Rights Division  
10th St. at Constitution  
Ave. N. W.  
Washington, DC 20530  
202-514-4741

JACK KEMP, Secretary  
defendant  
[term 06/10/91]

Howard R Griffin  
[term 06/10/91]  
(See above)  
[COR LD NTC]

RICHARD L BAUER,  
Director, Region X, United  
States Department of  
Housing and Urban  
Development  
defendant  
[term 06/10/91]

Howard R Griffin  
[term 06/10/91]  
(See above)  
[COR LD NTC]

WASHINGTON STATE  
BUILDING CODE  
COUNCIL, STATE OF  
WASHINGTON  
defendant  
[term 04/30/92]

Lawrence C. Watters  
[term 11/26/91]  
753-9670  
[COR LD NTC]  
ATTORNEY GENERAL'S  
OFFICE  
Special Litigation  
7th Fl. Hwys/Lic Bldg.  
PB-71  
Olympia, WA 98504-8094  
753-9670

Tommy Prud'homme  
[term 04/30/92]  
743-5060  
[COR LD]  
ATTORNEY GENERAL'S  
OFFICE  
905 Plum St., 3rd Floor  
P.O. Box 40100  
Olympia, WA 98504-0100  
753-5060

OXFORD HOUSE, INC  
defendant

Robert I Heller  
624-3600  
[COR LD NTC]  
RIDDELL, WILLIAMS,  
BULLITT &  
WALKINSHAW  
1001 4TH AVE PLAZA  
SUITE 4400  
SEATTLE, WA 98154-3028  
624-3600

RB HAMILTON  
defendant

Robert I Heller  
(See above)  
[COR LD NTC]

OXFORD HOUSE-  
EDMONDS, an  
unincorporated  
Washington Association  
defendant

Robert I Heller  
(See above)  
[COR LD]

OXFORD HOUSE-HOYT,  
an Unincorporated  
Washington Association  
defendant  
[term 04/30/92]

Robert I Heller  
[term 04/30/92]  
(See above)  
[COR LD]

EDMONDS CITY OF, a  
Municipal Corporation  
defendant

Phillip C. Raymond  
447-7000  
[COR LD]  
Walter Scott Snyder  
447-7000  
[COR LD]  
OGDEN, MURPHY &  
WALLACE  
1601 5TH AVE  
2100 WESTLAKE CENTER  
SEATTLE, WA 98101-1686  
447-7000

OXFORD HOUSE, INC  
counter-claimant

Robert I Heller  
624-3600  
[COR LD NTC]  
RIDDELL, WILLIAMS,  
BULLITT &  
WALKINSHAW  
1001 4TH AVE PLAZA  
SUITE 4400  
SEATTLE, WA 98154-3028  
624-3600

HERB HAMILTON  
counter-claimant

Robert I Heller  
(See above)  
[COR LD NTC]

v.

EDMONDS CITY OF  
counter-defendant

Phillip C. Raymond  
447-7000  
[COR LD NTC]  
Walter Scott Snyder  
447-7000  
[COR LD NTC]  
OGDEN, MURPHY &  
WALLACE  
1601 5TH AVE  
2100 WESTLAKE CENTER  
SEATTLE, WA 98101-1686  
447-7000

EVERETT CITY OF  
counter-defendant

Phillip C. Raymond  
(See above)  
[COR LD NTC]  
Walter Scott Snyder  
(See above)  
[COR LD NTC]

=====

OXFORD HOUSE, INC  
counter-claimant

Robert I Heller  
624-3600  
[COR LD NTC]  
RIDDELL, WILLIAMS,  
BULLITT &  
WALKINSHAW  
1001 4TH AVE PLAZA  
SUITE 4400  
SEATTLE, WA 98154-3028  
624-3600



HERB HAMILTON  
counter-claimant

Robert I Heller  
(See above)  
[COR LD NTC]

OXFORD HOUSE-  
EDMONDS  
counter-claimant

Robert I Heller  
(See above)  
[COR LD]

OXFORD HOUSE-HOYT  
counter-claimant

Robert I Heller  
(See above)  
[COR LD]

v.

EDMONDS CITY OF  
counter-defendant

Phillip C. Raymond  
447-7000  
[COR LD NTC]  
Walter Scott Snyder  
447-7000  
[COR LD NTC]  
OGDEN, MURPHY &  
WALLACE  
1601 5TH AVE  
2100 WESTLAKE CENTER  
SEATTLE, WA 98101-1686  
447-7000

EVERETT CITY OF  
counter-defendant

Phillip C. Raymond  
(See above)  
[COR LD NTC]  
Walter Scott Snyder  
(See above)  
[COR LD NTC]

- 2/13/91 1 COMPLAINT (Summons(es) issued) receipt no. 184365 (md) [Entry date 02/15/91] [2:91cv215]
- 2/19/91 2 RETURN OF SERVICE executed upon defendant Washington State Bld, defendant Oxford House, Inc, defendant Herb Hamilton on 2/14/91 (md) [Entry date 02/20/91] [2:91cv215]
- 2/27/91 3 ATTORNEY APPEARANCE for defendant Washington State Bldg Code Council; Lawrence Watters-attorney (md) [Entry date 02/28/91] [2:91cv215]
- 2/27/91 4 AFFIDAVIT of service regarding attorney appearance [3-1] (md) [Entry date 02/28/91] [2:91cv215]
- 3/1/91 5 ORDER by Judge William L. Dwyer joint status rpt ddl set for 5/15/91 (cc: all counsel) (md) [2:91cv215]
- 3/1/91 6 ORDER by Judge William L. Dwyer regarding discovery and depositions (cc: all counsel) (md) [2:91cv215]
- 3/1/91 7 RETURN OF SERVICE executed upon defendant US Dept of Housing, defendant Jack Kemp, defendant Richard L Bauer on 2/14/91 (md) [Entry date 03/04/91] [2:91cv215]
- 3/5/91 8 ATTORNEY APPEARANCE for defendant Oxford House, Inc; Robert Heller - attorney (md) [Entry date 03/06/91] [2:91cv215]

- 3/18/91 9 ATTORNEY APPEARANCE for defendant Herb Hamilton; Robert Heller-attorney (md) [Entry date 03/19/91] [2:91cv215]
- 3/28/91 10 ANSWER to complaint [1-1] and COUNTERCLAIM by defendant Herb Hamilton, defendant Oxford House, Inc against plaintiff Edmonds, City of, plaintiff Everett, City of (md) [Entry date 03/29/91] [2:91cv215]
- 4/5/91 11 ATTORNEY APPEARANCE for defendant Richard L Bauer, defendant Jack Kemp, defendant US Dept of Housing; Howard R. Griffin-attorney (md) [Entry date 04/09/91] [2:91cv215]
- 4/5/91 12 CERTIFICATE of service re: notice of appearance (md) [Entry date 04/09/91] [2:91cv215]
- 4/10/91 13 MOTION by defendant to dismiss defts United States Dept of Housing and Urban Development, Jack Kemp and Richard L. Bauer, Oral Argument Requested noted for 4/26/91 (md) [Entry date 04/12/91] [2:91cv215]
- 4/10/91 14 MEMORANDUM by defendant in support of motion to dismiss defts United States Dept of Housing and Urban Development, Jack Kemp and Richard L. Bauer, Oral Argument Requested [13-1] (md) [Entry date 04/12/91] [2:91cv215]
- 4/10/91 15 CERTIFICATE of service re: motion to dismiss, et al (md) [Entry dated 04/12/91] [2:91 cv 215]

- 4/25/91 16 LETTER from defendant to con't motion to dismiss to May 24, 1991 (md) [Entry date 04/26/91] [2:91cv215]
- 5/15/91 17 JOINT STATUS REPORT filed by all parties. (md) [Entry date 05/16/91] [2:91cv215]
- 5/16/91 18 ORDER by Judge William L. Dwyer last date for adding new parties is 6/17/91; discovery ddl set for 12/27/91; mtn filing ddl set for 1/9/92; motions in limine to be filed by 2/20/92; pretrial order ddl set for 3/12/92; pretrial conf set for 11:00 3/16/92; trial brief ddl set for 3/26/92; trial set for 3/31/92 (cc: all counsel) (md) [2:91cv215]
- 5/28/91 19 STATEMENT by plaintiff of nonopposition in response to deft US Dept of Housing and Urban Development, Jack Kemp and Richard L. Bauer's motion to dismiss [13-1] (md) [Entry date 05/29/91] [2:91cv215]
- 5/28/91 20 AFFIDAVIT of service regarding statement [19-1] (md) [Entry date 05/29/91] [2:91cv215]
- 6/10/91 21 MINUTE ORDER: by WLD, granting motion to dismiss defts United States Dept of Housing and Urban Development, Jack Kemp and Richard L. Bauer [13-1] terminating defendant US Dept of Housing, defendant Jack Kemp, defendant Richard L Bauer (cc: all counsel) (md) [Entry date 06/11/91] [2:91cv215]
- 6/17/91 22 STIPULATION permitting pltf's to amend complaint (md) [Entry date 06/19/91] [2:91cv215]

- 6/17/91 - PROPOSED amended complaint (md) [Entry date 06/19/91] [2:91cv215]
- 6/17/91 23 CERTIFICATE of service re: stipulation permitting pltfs to amend complaint, etc (md) [Entry date 06/19/91] [2:91cv215]
- 7/12/91 24 AMENDED COMPLAINT (second) [1-1] by plaintiffs; adding Oxford House-Edmonds, Oxford House-Hoyt (md) [2:91cv215]
- 8/19/91 25 ANSWER to and COUNTERCLAIM by defendant Herb Hamilton, defendant Oxford House, Inc, defendant Oxford House-Edmonds, defendant Oxford House-Hoyt against plaintiff Edmonds, City of, plaintiff Everett, City of (md) [Entry date 08/20/91] [2:91cv215]
- 8/27/91 26 NOTICE by plaintiff Edmonds, City of OF ASSOCIATION OF ATTORNEY Mark R. Bucklin w/W. Scott Snyder (md) [2:91cv215]
- 8/27/91 27 AFFIDAVIT of mailing regarding attorney association [26-1] (md) [2:91cv215]
- 9/26/91 28 MINUTE ORDER: by WLD case consolidated 2:91-cv-215 with member cases 2:91-cv-1273 all pleadings to be filed in C91-215WD (cc: all counsel) (md) [Entry date 09/27/91] [2:91cv215]
- 9/26/91 30 ATTORNEY APPEARANCE for defendant Edmonds, City of; W.Costt Snyder-attorney (md) [Entry date 10/02/91] [2:91cv215]
- 9/27/91 29 ACCEPTANCE/ACKNOWLEDGEMENT OF SERVICE by defendant Edmonds,

- City of on 9/19/91 (md) [Entry date 10/01/91] [2:91cv215]
- 10/9/91 31 ANSWER to by defendant City of Edmonds (seal) [Entry date 10/10/91] [2:91cv215]
- 10/10/91 32 CERTIFICATE of service re: answer (md) [Entry date 10/11/91] [2:91cv215]
- 11/22/91 33 MOTION by plaintiff USA to extend time to conduct discovery etc noted for 12/13/91 (md) [Entry date 11/25/91] [2:91cv215]
- 11/22/91 34 AFFIDAVIT of Howard R. Griffin in support of motion to extend time to conduct discovery etc [33-1] (md) [Entry date 11/25/91] [2:91cv215]
- 11/22/91 35 CERTIFICATE of service re: motion for extension of time for discovery dates et al (md) [Entry date 11/25/91] [2:91cv215]
- 11/26/91 36 SUBSTITUTION OF COUNSEL on behalf of Washington State Bld in 2:91-cv-00215; Tommy Prud'homme term attorney Lawrence C. Watters for Washington State Bld in 2:91-cv-00215 (md) [Entry date 11/27/91] [2:91cv215]
- 11/26/91 37 AFFIDAVIT of service by mailing regarding attorney substitution [36-1] (md) [Entry date 11/27/91] [2:91cv215]
- 12/2/91 38 MINUTE ORDER: by WLD, Counsel for Deft WA State Bldg Code Council's notice of substitution is deemed a motion for leave to withdraw and substitution of counsel is approved, unless any party objects within 1 days of the date of this



- order (cc: all counsel) (md) [Entry date 12/04/91] [2:91cv215]
- 12/2/91 39 AMENDMENT by plaintiff USA in 2:91-cv-00215 to motion to extend time to conduct discovery etc [33-1] (md) [Entry date 12/04/91] [2:91cv215]
- 12/3/91 40 ORDER by Judge William L. Dwyer granting motion to extend time to conduct discovery etc [33-1] discovery ddl extended to 4/17/92; mtn filing ddl extended to 4/29/92; motions in limine to be filed by 6/11/92; pretrial order ddl extended to 7/2/92; pretrial conf extended to 9:30 7/6/92; trial brief ddl extended to 7/16/92; trial extended to 7/21/92 (cc: all counsel) (md) [Entry date 12/05/91] [2:91cv215]
- 4/7/92 41 NOTICE by plaintiff Edmonds, City of taking depo of Oxford House, Inc on 4/17/92 at 10:00 (md) [Entry date 04/08/92] [2:91cv215]
- 4/10/92 42 NOTICE by plaintiff Edmonds, City of taking depo of Oxford House Hoyt on 4/17/92 at 10:00; (md) [Entry date 04/13/92] [2:91cv215]
- 4/29/92 43 MOTION by plaintiff for summary judgment noted for 5/22/92 (md) [Entry date 04/30/92] [2:91cv215]
- 4/29/92 44 NOTICE/LIST OF CITATIONS by plaintiff of the authorities you have been inactive for 90 seconds. Hit any key to remain connected. relied upon in pltf's motion for sj (md) [Entry date 04/30/92] [2:91cv215]

- 4/29/92 45 MEMORANDUM by plaintiff in support of motion for summary judgment [43-1] (md) [Entry date 04/30/92] [2:91cv215]
- 4/29/92 46 DECLARATION of mailing re motion for summary judgment [43-1] (md) [Entry date 04/30/92] [2:91cv215]
- 4/29/92 47 DECLARATION of service re motion for summary judgment [43-1] (md) [Entry date 04/30/92] [2:91cv215]
- 4/29/92 48 STIPULATION (Joint) for purposes of dispositive motions w/attachments (md) [Entry date 04/30/92] [2:91cv215]
- 4/29/92 49 MOTION by plaintiff USA for partial summary judgment noted for 5/22/92 (md) [Entry date 04/30/92] [2:91cv215]
- 4/29/92 50 MEMORANDUM by plaintiff USA in support of motion for partial summary judgment [49-1] (md) [Entry date 04/30/92] [2:91cv215]
- 4/29/92 51 APPENDIX filed by plaintiff USA to memorandum in support of motion for partial summary judgment [49-1] (md) [Entry date 04/30/92] [2:91cv215]
- 4/29/92 - LODGED ORDER: granting motion for partial summary judgment (md) [Entry date 04/30/92] [2:91cv215]
- 4/29/92 52 CERTIFICATE of service re: USA motion for partial sj, et al (md) [Entry date 04/30/92] [2:91cv215]
- 4/29/92 53 MOTION by defendant Herb Hamilton, defendant Oxford House, Inc for partial

- summary judgment, Request Oral Argument noted for 5/22/92 (md) [Entry date 04/30/92] [2:91cv215]
- 4/29/92 54 MEMORANDUM by defendant Herb Hamilton, defendant Oxford House, Inc in support of motion for partial summary judgment, Request Oral Argument [53-1] (md) [Entry date 04/30/92] [2:91cv215]
- 4/29/92 55 DECLARATION of Scott Schrum re motion for partial summary judgment, Request Oral Argument [53-1] (md) [Entry date 04/30/92] [2:91cv215]
- 4/29/92 56 CERTIFICATION of J. Paul Molloy (md) [Entry date 04/30/92] [2:91cv215]
- 4/30/92 - LODGED ORDER: stipulation and order of dismissal as to deft Oxford House Hoyt and the WA State Bldg Code Council (md) [2:91cv215]
- 4/30/92 57 STIPULATION and ORDER by Judge William L. Dwyer: of dismissal of the City of Everett's complaint against depts Oxford House Hoyt and the WA State Bldg Code Council dismissing defendant Oxford House-Hoyt in 2:91-cv-00215, defendant Washington State Bld in 2:91-cv-00215 with prejudice and without costs to the respective parties (cc: all counsel) (md) [Entry date 05/04/92] [2:91cv215]
- 5/6/92 58 PRAECIPE: by plaintiff-USA, attached is signed by cnsl page 2 of the order re: motion for partial sj (md) [2:91cv215]
- 5/6/92 59 CERTIFICATE of service re: praecipe (md) [2:91cv215]

- 5/12/92 60 RESPONSE by defendants to Pltf City of Edmonds' motion for summary judgment [43-1] (md) [Entry date 05/13/92] [2:91cv215]
- 5/12/92 61 DECLARATION of Scott Schrum re motion response [60-1] (md) [Entry date 05/13/92] [2:91cv215]
- 5/15/92 - LODGED ORDER: re: motion for summary judgment (md) [2:91cv215]
- 5/18/92 62 BRIEF filed by plaintiff USA in opposition to City of Edmonds motion for summary judgment [43-1] (md) [Entry date 05/19/92] [2:91cv215]
- 5/21/92 63 REPLY BRIEF by plaintiff Edmonds, City of to Oxford House motion for sj (md) [2:91cv215]
- 5/21/92 64 LIST of citations of the Authorities relied upon in pltf's reply brief (md) [2:91cv215]
- 5/21/92 65 DECLARATION of mailing re reply [63-1] et al (md) [2:91cv215]
- 5/21/92 66 REPLY BRIEF by defendants Oxford House, Inc, Oxford House-Edmonds and Herb Hamilton in support of motion for sj [53-1] (md) [Entry date 05/26/92] [2:91cv215]
- 6/5/92 67 MINUTE ORDER: by Judge William L. Dwyer Oral Argument on the pending motions for sj set for 4:30 6/25/92. Counsel should plan on having 15 minutes per side (not per party). The date for completing pretrial steps are vacated pending decision on the sj motions. The trial date

- of 7/21/92 remains unchanged. (cc: all counsel) (md) [2:91cv215]
- 6/11/92 68 MOTION by plaintiff Edmonds, City of in limine (md) [Entry date 06/12/92] [2:91cv215]
- 6/11/92 -- LODGED ORDER: granting motion in limine (md) [Entry date 06/12/92] [2:91cv215]
- 6/12/92 69 MINUTE ORDER: by Judge William L. Dwyer striking motion in limine [68-1] without prejudice pending decision of the sj motions (cc: all counsel) (md) [Entry date 06/15/92] [2:92cv215]
- 6/15/92 70 MEMORANDUM by defendant Herb Hamilton, defendant Oxford House, Inc, defendant Oxford House-Edmonds in opposition to the US Request for continuance (md) [Entry date 06/16/92] [2:91cv215]
- 6/15/92 71 MOTION/NOTICE OF DECISION AND REQUEST FOR CONTINUANCE by plaintiff USA to continue the date for oral argument noted for 6/22/92 (md) [Entry date 06/16/92] [2:91cv215]
- 6/16/92 72 MINUTE ORDER: by Judge William L. Dwyer, that USA's notice of decision and request for continuance is deemed a motion to continue the date for oral argument. The motion is noted on shortened time for 6/22/92 and responses will be due on 6/18/92 and any reply on 6/19/92. (cc: all counsel) (md) [2:91cv215]

- 6/16/92 73 AFFIDAVIT of service re: request for continuance (md) [Entry date 06/17/92] [2:91cv215]
- 6/18/92 74 RESPONSE by plaintiff Edmonds, City of to motion to continue the date for oral argument [71-1] (md) [2:91cv215]
- 6/18/92 75 DECLARATION of service and mailing re motion response [74-1] (md) [2:91cv215]
- 6/19/92 76 MINUTE ORDER: by Judge William L. Dwyer, The request of the USA for a postponement of the oral argument is denied. Any counsel who wishes to take part in the hearing by speaker telephone rather than in person may do so provided advance arrangements are made w/law clerk. (cc: all counsel) (md) [Entry date 06/22/92] [2:91cv215]
- 6/25/92 77 MINUTES: WLD; Dep Clerk: Eileen; CR: Robert Molezzo; Oral argument held on sj motions held on 6/24/92 and a Written order to be issued. Paul Hancock admitted to practice in this dist for this hearing only. (md) [Entry date 06/26/92] [2:91cv215]
- 6/26/92 78 DECLARATION of Martha Aylas Dusenberry (md) [Entry date 06/29/92] [2:91cv215]
- 6/30/92 79 MINUTE ORDER: by Judge William L. Dwyer all dates for completion of pretrial steps are vacated and an order on motions for sj will follow; pretrial order ddl vacated 7/2/92; pretrial conf vacated 9:30 7/6/92; trial brief ddl vacated 7/16/92; trial vacated 7/21/92 (cc: all counsel) (md) [2:91cv215]



- 7/14/92 80 ORDER by Judge William L. Dwyer denying Oxford House and USA motion for partial summary judgment [53-1] [49-1], granting City of Edmonds motion for summary judgment [43-1] (cc: all counsel) (md) [Entry date 07/15/92] [2:91cv215]
- 7/15/92 81 JUDGMENT: by Judge William L. Dwyer, on cross motions for sj (cc: all counsel) (md) [2:91cv215]
- 7/15/92 84 TRANSCRIPT FILED, motions for summary judgment on 6/24/92 CR: Molezzo (mg) [Entry date 07/21/92] [2:91cv215]
- 7/17/92 82 MOTION by defendant for reconsideration of order to consider two unaddressed issues (oral argument requested) (md) [Entry date 07/20/92] [2:91cv215]
- 7/17/92 83 AFFIDAVIT of service regarding motion for reconsideration of order to consider two unaddressed issues (oral argument requested) [82-1] (md) [Entry date 07/20/92] [2:91cv215]
- 7/22/92 85 ORDER by Judge William L. Dwyer denying motion for reconsideration of order to consider two unaddressed issues [82-1] (cc: all counsel) (md) [2:91cv215]
- 8/12/92 90 NOTICE OF APPEAL by defendants from Dist. Court decision [81-1] (cc: CCA, WLD, all counsel) (mg) [Entry date 08/14/92] [2:91cv215]
- 8/12/92 -- APPEAL FEE RECEIVED: fee in amount of \$105.00 (Receipt #197928) (mg) [Entry date 08/14/92] [2:91cv215]

- 8/13/92 86 MOTION by plaintiff Edmonds, City of for attorney fees noted for 9/4/92 (ws) [Entry date 08/14/92] [2:91cv215]
- 8/13/92 87 MEMORANDUM by plaintiff Edmonds, City of in support of pltf's motion for attorney fees [86-1] (ws) [Entry date 08/14/92] [2:91cv215]
- 8/13/92 88 AFFIDAVIT of W. Scott Snyder in support of request for award of reasonable attorney fees [86-1] (ws) [Entry date 08/14/92] [2:91cv215]
- 8/13/92 89 DECL OF MAILING by plaintiff Edmonds, City of, of Motion [86] and supporting pldgs served on defts (ws) [Entry date 08/14/92] [2:91cv215]
- 8/14/92 -- APPEAL NOTIFICATION packet sent to CCA (cc: cnsl) (mg) [2:91cv215]
- 8/14/92 -- CERTIFICATE OF RECORD Transmitted to USCA (cc: all counsel) (mg) [2:91cv215]
- 8/20/92 -- NOTIFICATION by Circuit Court of Appellate Docket Number 92-36640 (mg) [Entry date 08/27/92] [2:91cv215]
- 8/20/92 91 TIME SCHEDULE ORDER (CCA) 92-36640: certifrec. filed; open.br. and excerpts due 11/30/92; resp.br. due 12/28/92; optional reply br. due 14 days from svc. of resp.br. (mg) [Entry date 08/27/92] [2:91cv215]
- 8/31/92 92 MEMORANDUM by plaintiff USA in opposition to City of Edmonds motion for attorney fees [86-1] (md) [2:91cv215]

- 9/8/92 93 TRANSCRIPT DESIGNATION and Ordering Form for dates: 6/24/92 argument on sumjgt mtns. (already filed) (mg) [Entry date 09/10/92] [2:91cv215]
- 9/14/92 94 NOTICE OF APPEAL by plaintiff USA from Dist. Court decision [81-1]. Attached certificate of service. (cc: CCA, WLD, all counsel) (mg) [Entry date 09/17/92] [2:91cv215]
- 9/14/92 -- NO APPEAL FEE RECEIVED: appellant USA (mg) [Entry date 09/17/92] [2:91cv215]
- 9/17/92 -- APPEAL NOTIFICATION packet sent to CCA (cc: cnsl) (mg) [2:91cv215]
- 9/17/92 -- CERTIFICATE OF RECORD Transmitted to USCA (cc: all counsel) (mg) [2:91cv215]
- 9/22/92 95 ORDER by Judge William L. Dwyer denying City's motion for attorney fees [86-1] (cc: all counsel) (seal) [2:91cv215]
- 10/3/92 -- NOTIFICATION by Circuit Court of Appellate Docket Number 92-36735 (mg) [Entry date 10/07/92] [2:91cv215]
- 10/3/92 96 TIME SCHEDULE ORDER (CCA) 92-36735: trns.des. due 10/14/92; RT due 11/16/92; open.br. and excerpts due 12/31/92; resp.br. due 1/30/93; optional reply br. due 14 days from svc. of resp.br. (mg) [Entry date 10/07/92] [2:91cv215]
- 3/3/93 -- CLERK'S RECORD ON APPEAL transmitted to Circuit (4 vols orig) (mg) [2:91cv215]
- 4/9/94 97 MANDATE 92-36640, 92-36735): REVERSES AND REMANDS the decision

- of the District Court. Attached opinion. (cc: WLD, all counsel) (mg) [Entry date 04/19/94] [2:91cv215]
- 4/13/94 -- RECORD ON APPEAL returned from U.S. Court of Appeals (mg) [Entry date 04/14/94] [2:91cv215]
- 4/28/94 98 MINUTE ORDER: by Judge William L. Dwyer Status Conference set for 2:00 5/9/94. (cc: all counsel, WLD) (md) [Entry date 04/29/94] [2:91cv215]
- 5/5/94 99 MINUTE ORDER: by Judge William L. Dwyer, by agreement of cnsl for all parties as expressed in a phone conference previously set for 5/9/94 is cancelled. Cnsl are directed to advise the court promptly at such time as the US Supreme Court either grants or denies the petition for a writ of certiorari. (cc: all counsel, WLD, Eileen) (md) [Entry date 05/06/94] [2:91cv215]
- 11/7/94 100 ORDER by Judge William L. Dwyer removing case from active caseload pending the completion of review of the US Supreme Court. This order is entered for admin purposes and will not prejudice the rights of any party. The case will be restored to the active list, if necessary, following review by the Supreme Court. (cc: counsel, Judge) (seal) [2:91cv215]

[END OF DOCKET: 2:91cv215]

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Docket as of October 26, 19123 11:13 am

Proceedings include all events.

2:91cv1273 USA v. City of Edmonds, WA

TERMED  
CONSOL

TERMED CONSOL

U.S. District Court

U.S. District Court - Western Washington (Seattle)

CIVIL DOCKET FOR CASE #: 91-CV-1273

USA v. City of Edmonds, WA

FILED: 09/12/91

Assigned to: Judge

Nature of Suit:

William L Dwyer

443

Demand: \$0,000

Jurisdiction:

Lead Docket: 91-CV-215

US Plaintiff

Dkt# in other court: None

Cause: 42:405 Fair Housing Act

UNITED STATES  
OF AMERICA  
plaintiff

Susan L. Barnes

442-5196

[COR LD]

U.S. ATTORNEY'S OFFICE

800 5TH AVE

STE 3600

SEATTLE, WA 98104

553-7970

Howard R Griffin

202-514-4741

[COR LD]

U.S. DEPARTMENT OF JUSTICE

Civil Rights Division

10th St. at Constitution Ave.

N.W.

Washington, DC 20530

202-514-4741

v.

EDMONDS CITY OF,  
a Municipal Corporation  
defendant

- 9/12/91 1 COMPLAINT (Summons(es) issued in blank) fee waived (hh) [Entry date 09/16/91] [2:91cv215]
- 9/18/91 2 MINUTE ORDER: by BJR Case reassigned to Judge William L. Dwyer as related to C91-215WD (cc: all counsel,BJR,WLD) (rs) [2:91cv215]
- 9/26/91 3 MINUTE ORDER: by WLD, Case consolidated w/C91-215WD. All pleadings to be filed in that case no. (cc: all counsel) (md) [Entry date 09/27/91] [2:91cv215]

[END OF DOCKET: 2:91cv1273]

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UNITED STATES DISTRICT COURT  
IN AND FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CITY OF EDMONDS,	)	
WASHINGTON, a municipal	)	NO. C91-215WD
corporation and CITY OF	)	PLAINTIFFS'
EVERETT, WASHINGTON, a	)	COMPLAINT
municipal corporation,	)	FOR DECLARA-
Plaintiffs,	)	TORY RELIEF
vs.	)	
UNITED STATES DEPARTMENT	)	
OF HOUSING AND URBAN	)	
DEVELOPMENT; JACK KEMP,	)	
SECRETARY; RICHARD L. BAUER,	)	
DIRECTOR, REGION X, UNITED	)	
STATES DEPARTMENT OF	)	
HOUSING AND URBAN	)	
DEVELOPMENT; WASHINGTON	)	
STATE BUILDING CODE	)	
COUNCIL, STATE OF	)	
WASHINGTON; OXFORD HOUSE,	)	
INC.; and HERB HAMILTON,	)	
Defendants.	)	

COME NOW plaintiffs City of Edmonds, Washing-  
ton, a municipal corporation, and City of Everett, Wash-  
ington, a municipal corporation, by and through their  
duly appointed counsel W. Scott Snyder and Phillip C.  
Raymond, Ogden Murphy Wallace, and for their com-  
plaint herein allege as follows:

### 1. NATURE OF ACTION.

1.1. This is an action brought by the Cities of Edmonds and Everett, Washington seeking declaratory relief that the definitions of their respective zoning codes defining family for the purpose of establishing a definition for and the density of single family zone are not on their face in violation of the Fair Housing Act and the Fair Housing Act Amendments of 1988 of Title VII of the Civil Rights Act of 1968, 42 U.S.C. § 3604 et seq. The Department of Housing and Urban Development is charged with investigation and administration of the investigation of complaints under the Act. It has advised Plaintiffs and their counsel that zoning ordinances which restrict the number of unrelated adults that may live in a single family residence impermissibly discriminate against disabled persons in violation of the rights granted under the Fair Housing Act.

### 2. JURISDICTION

2.1. This court's jurisdiction is based on 28 U.S.C. § 1331 (Federal question).

### 3. VENUE.

3.1. This court's venue is established pursuant to 28 U.S.C. § 1391(e).

### 4. PARTIES.

4.1. The City of Edmonds is an optional code city organized pursuant to the provisions of Title 38A of the Revised Code of Washington (RCW). The City of Everett is a charter city incorporated pursuant to its City Charter as authorized under the provisions of RCW Title 35.

4.2. Defendant United States Department of Housing and Urban Development (hereinafter "HUD") is the United States Government agency whose Secretary, Jack Kemp, is authorized to administer the provisions of the Fair Housing Act and the Fair Housing Act Amendments of 1988, 42 U.S.C. § 3601 et seq. These federal statutes authorize the Secretary and the Secretary's designee, to conduct investigations of complaints alleging the Fair Housing Act has been violated. If the Secretary determines an allegation involves the legality of a local zoning ordinance, the Secretary shall refer the matter to the U.S. Attorney General for action under 42 U.S.C. § 3614. Richard L. Bauer is the Director of Region X of HUD. Region X includes the State of Washington.

4.3. The Washington State Building Code Council is established pursuant to RCW Chapter 19.27 to administer and interpret the provisions of the State Building Code. RCW 19.27.050 requires Washington State's municipalities to enforce the provisions of the State Building Code. Any amendment of the State Building Code by a city which affects single family residential buildings is required to be specifically approved by the State Building Code Council. Municipal and other local building regulations are superseded by RCW 19.27.060.

4.4. Oxford House, Inc. ("Oxford House") is a non-profit organization doing business in Edmonds and Everett, Snohomish County, Washington as well as other locations nationwide. In Edmonds and Everett, Oxford House operates or seeks to operate residential treatment facilities or "3/4 way houses" for recovering drug addicts and alcoholics. These residential living arrangements are self-governing and consist of groups of 8 to 25 unrelated

adults, either male or female, and are established for the purpose of providing mutual support to recovering drug addicts and alcoholics. Oxford House has established, or is in the process of establishing, similar facilities at other Washington state locations.

4.5. Herb Hamilton owns residential real estate within the city of Edmonds at 8407 - 216th Street, S.W., Edmonds, Washington.

## 5. GENERAL ALLEGATIONS-CITY OF EDMONDS.

5.1. On or before July 20, 1990, Oxford House, Inc., through its agent Mark Spence leased from Herb Hamilton a single family residence located at 8407 - 216th Street S.W., Edmonds, Washington, (hereinafter "Edmonds 3/4 Way House"). Mr. Spence on behalf of Oxford House circulated a written description of Oxford House and the facility it intended to establish in Edmonds to neighbors of the 3/4 way house location. A copy of the communication is attached hereto as Exhibit "A" and incorporated fully by reference. The handwritten comments on the exhibit are the questions or opinions of the citizen complainant who received the description and do not represent the position or opinion of the Plaintiffs. In its materials Oxford House represents:

Experience of Oxford House has shown that from 8 to 25 members works well. A house with fewer than 6 individuals is difficult to maintain because of the small size of the group and the fact that any vacancy causes greater disruption of the financial welfare of the house than a vacancy in a larger house.



The materials indicate consenting unrelated individuals, either male or female, but not both, would reside in each house.

5.2. Following circulation of the written material, neighbors of the 3/4 way house began complaining to the City of Edmonds that occupation of the house by more than 6 unrelated adults violates the provisions of the Edmonds Community Development Code ("ECDC"). ECDC Chapter 16.20, and Section 16.20.010(a)(1) limit the primary use in single family residential zones to single family dwelling units. ECDC § 21.90.080 defines single family dwelling (unit) as a detached building . . . used by one family. . . . " ECDC 21.30.010 defines family:

Family means an individual or two or more persons related by genetics, adoption, or marriage, or a group of five or fewer persons who are not related by genetics, adoption, or marriage and none of whom are wards of the court unless such wards are related by genetics, adoption, or marriage to all other members of such group living together in a dwelling unit.

Copies of ECDC Chapter 16.20, ECDC 21.90.080 and ECDC 21.30.010 are attached hereto as Exhibits "B", "C" and incorporated fully by this reference.

5.3. On July 20, 1990 Assistant City Planner Duane Bowman sent a letter notifying Mr. Spence on behalf of Oxford House, Inc. that the Edmonds Group Home was located in an RS-8 single family zone, which limited the maximum number of unrelated individuals who may live in the home to five persons. A copy of the letter is attached hereto as Exhibit "E". Similar notice was also sent to Herb Hamilton. Following receipt of the

neighbors' complaints, the code enforcement officer of the City of Edmonds investigated the complaint, finding that more than six unrelated male adults were occupying the premises. City of Edmonds filed complaints in Edmonds Municipal Court alleging violation of the Edmonds Community Development Code.

5.4. Apparently in response to the Edmonds notice, Oxford House, Inc. and Herb Hamilton filed complaints with the U.S. Department of Housing and Urban Development, Region X. HUD assigned these complaints case nos. 10-90-0308-1 and 10-90-0327-1. A copy of Oxford House's complaint is attached hereto as Exhibit "F"; Mr. Hamilton's complaint is substantially the same form. Copies of the complaints were served on the City of Edmonds.

5.5. Upon notification of the pendency of the complaints, and a demand from Mr. Robison, the City of Edmonds withdrew criminal complaints Nos. 37196, 37197, 37198 initiated in Edmonds Municipal Court against defendants Herb Hamilton, Mark Spence and Clayton Earls, respectively. Mr. Earls was a resident of Oxford House Edmonds 3/4 Way House at the date of initial inspection.

5.6. HUD investigator Tim Robison contacted Edmonds and its officials regarding the complaints. A conciliation meeting was arranged between various city officials, Mr. Robison and Ave' Quesada, another representative of Region X. At this meeting, HUD notified Edmonds' mayor, one of its Council members, its director of Community Services, Planning Director, city attorney,



building official and zoning official of HUD's interpretation of the Fair Housing Act. HUD's representatives advised the City's representatives that it is HUD's interpretation that a municipal ordinance that regulates groups of unrelated disabled persons differently than members of traditional family groups discriminates against disabled persons in violation of the Fair Housing Act Amendments. More specifically, Edmonds City officials were told the City ordinance's definition of "family" on its face discriminates against disabled persons because it permits an unlimited number of persons related by genetics, adoption or marriage to occupy a single family residence but limits the number of unrelated persons (and therefore unrelated disabled persons) that may occupy such a residence. Under HUD's interpretation, this limitation illegally restricts housing opportunities for the disabled in violation of the Fair Housing Act. This interpretation has not been the subject of a federal regulation or rule making.

5.7. The Fair Housing Act Amendments of 1988, 42 U.S.C. Section 3602(h) define handicap as:

- (1) A physical or mental impairment which substantially limits one or more of such persons' major life activities, (2) a record of having such impairment, or (3) being regarded as having such an impairment, that such term does not include current, illegal, use of or addiction to controlled substance as defined in Section 802 of Title XXI.

Throughout this complaint, disabled persons refers to persons defined as handicapped by this section.

5.8. HUD has adopted regulations defining "physical or mental impairment" to include "... drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism." 24 CFR Section 100.201(a)(2) (1989). The residents of Oxford House are alleged by Oxford House and HUD to be recovering drug addicts and alcoholics who are not currently abusing illegal drugs, and are, therefore handicapped, and entitled to the protections of the Fair Housing Act Amendments.

## 6. GENERAL ALLEGATIONS - CITY OF EVERETT

6.1. On or about September 1st, 1990, an agent of Oxford House, Ken Westphal, filed an application for construction permit to make improvements to a residential home located at 3232 Hoyt, in Everett, Washington. A copy of the application filed with the City of Everett Building Department is attached hereto as Exhibit "G". The application states that the proposed use of the building is for transitional housing, residential (3/4) way house, indicating that the tenant would be Oxford House, Inc. This building will be referred to hereafter as the Everett 3/4 Way House.

6.2. The Everett 3/4 way house is located at 3232 Hoyt, Everett, Snohomish County, Washington and is zoned R-5 Core Residential. The Everett Zoning Code (hereinafter "EZC") p. 14-01, Use Standards Table to R-5 Core Residential Zones provides for single family use in the type of structure located at 3232 Hoyt. EZC 3.010(64) defines family as follows:

*Family* means any number of persons related by blood, marriage or legal adoption and including foster children and exchange students living together as a single housekeeping unit. Family also means the following when living together as a single, not for profit housekeeping unit:

- a. a group of not more than four related and unrelated adults and their related minor children, but not to exceed a total of eight related and unrelated persons; or
- b. not more than eight disabled persons, whether adults or minors, living together in a consensual residential living arrangement, but not to exceed a total of eight persons.

For the purposes of this definition, an adult is a person eighteen years of age or older, and a minor child is a person under the age of eighteen years old.

A copy of EZC p. 14.01 and EZC 3.010(64) are hereby attached as Exhibit "H" and incorporated fully by this reference.

6.3. The State Building Code, Section 303(a) UBC (1988 Ed.) provides in pertinent part:

If the building official finds that the work described in an application for a permit and the plans, specifications, and other data filed therewith conform to the requirements of this code and *other pertinent laws and ordinances . . .* he shall issue a permit therefore to the applicant. [Emphasis added.]

6.4. According to the construction permit application, the Everett 3/4 way house would be operated by Oxford House, Inc. Defendant Oxford House, Inc., would

house unrelated female or male adults in excess of the plaintiff Everett's occupancy limits. These adults would be recovering drug addicts or alcoholics.

6.5. Tim Tyler, building official of the City of Everett, notified Oxford House's agent that the City of Everett is unable to approve the application at the present time because it does not comply with the Everett Zoning Code. Mr. Tyler's notification was based on Oxford House's representations that its use anticipates occupancy by eight or more unrelated adults and that the State Building Code requires different construction standards for the proposed use than for a family residence.

## 7. GENERAL ALLEGATIONS – STATE OF WASHINGTON

7.1. RCW Chapter 19.27 establishes the State Building Code Council. The State Building Code Council is responsible for administration of the State Building Code. The Council is charged with review of any amendment of the State Building Code by a local municipality which affects structures containing four or fewer dwelling units, including single family residences. The State Building Code adopted pursuant to RCW 19.27.031 currently consists of the 1988 version of the Uniform Building Code ("UBC") as amended by the State Building Code Council.

7.2. Washington cities are required to adopt and administer the State Building Code. Edmonds and Everett have both adopted the State Building Code and administer and enforce it through their building officials.



7.3. Section 407 of the UBC, 1988 edition (State Building Code) defines "family":

Family is an individual or two or more persons related by blood or marriage or a group of not more than five persons (excluding servants) who need not be related by blood or marriage living together in a dwelling unit.

7.4. The State Building Code directs the cities, as administrators and enforcement officials of the State Building Code, to require different standards and methods for construction or remodeling of a structure to be inhabited by groups of six or more unrelated adults than it would if the same structure were inhabited by a "family" of the same size.

7.5. Under the State Building Code, dwellings and lodging houses are classified as R-3 occupancies. The R-3 classification is limited to five (5) guest rooms (Section 413 UBC) and/or one family/five (5) persons unrelated by blood or marriage (Section 407 UBC). Occupancies which exceed these thresholds are classified as R-1, a classification for hotels and apartment houses. The R-1 classification requires a variety of health and safety requirements not required for R-3 dwellings. These additional requirements include but are not limited to one hour fire construction if the structure is more than two stories or if it has more than 3,000 square feet above the first story; if it contains a basement, it must have two separate exits; and the structure in certain instances may be required to have an automatic sprinkler system. These construction methods and requirements would be considered in reviewing the Everett 3/4 way house if occupied by its projected numbers of unrelated disabled persons.

7.6. State of Washington, Department of Community Development is charged, pursuant to RCW 70.128.180, to conduct surveys of the housing opportunities available to disabled persons and of the local zoning requirements pertaining to such housing, and to issue its report and recommendation with respect thereto by December 31, 1990. RCW 70.128.80 also requires development of a model local ordinance. The Department of Community Development circulated to plaintiffs a copy of the draft model ordinance. The draft model ordinance recommended limiting the number of unrelated adults in single family neighborhoods to six or fewer. It would not limit the number of persons related by blood or marriage that may reside in a single family residence.

7.7. The State of Washington, Department of Social and Health Services in October 1990 announced by press release that it is accepting applications for funding of residential treatment facilities and 3/4 transitional housing for recovering drug addicts and alcoholics of the type established by Oxford House. A copy of this press release is attached hereto as Exhibit "I". Public funds are available for the financing of these facilities. This funding will lead to further proliferation of 3/4 houses and residential treatment houses in the various cities of the state of Washington. Each house will be subject to the State Building Code. The majority of the houses will be located in cities whose ordinances differentiate between the number of unrelated adults and the number of related persons who may occupy single family structures.



## **8. INJURY, ADVERSE IMPACT AND NATURE OF GRIEVANCE**

8.1. Plaintiffs are injured, adversely affected, and aggrieved by defendants' actions in interpreting and enforcing the Fair Housing Act of 1988 in an improper and inappropriate manner.

8.2. The citizens of plaintiffs who reside in the single family neighborhoods surrounding the 3/4 way houses will be adversely impacted in that the plaintiffs have and are being coerced to suspend enforcement of lawful zoning ordinances designed to protect single family neighborhoods by regulating their density.

8.3. The plaintiffs base their planning and zoning upon certain assumptions of density. These assumptions of density are based upon census and other historical data based on the existing definitions of single family and the number of residences in each community. The Plaintiffs' planning efforts include, but are not limited to, the siting of police and fire stations, and the planning, construction and maintenance of roads, sewers, water lines and other infrastructure. The validity of the planning assumptions and provision for current and future public improvements will be negatively impacted by defendants' improper and unlawful enforcement of the complaints.

8.4. Washington state statute, RCW Chapter 19.27, requires the plaintiffs to enforce the provisions of the State Building Code at the same time that they have been threatened by HUD, with civil litigation conducted by the U.S. Department of Justice if the plaintiffs enforce their zoning codes and the provisions of state law.

8.5. The plaintiffs are without an adequate remedy under the provisions of the Fair Housing Act in that the administrative investigation and civil action which follows, would delay enforcement of their ordinances and expose them to damages, civil penalties and the payment of attorneys' fees.

8.6. Declaratory relief is appropriate to prevent state and federal funding of 3/4 treatment facilities intended to be located at sites in conflict with local zoning ordinances. Declaratory relief is necessary to avoid administrative actions and litigation which would follow. It would also provide guidance to the State of Washington in its funding of 3/4 way houses.

8.7. The above-referenced enforcement activities of HUD and its Region X are improper and inconsistent applications of the Fair Housing Act. Discrimination protections afforded to disabled persons should be applied equally within the class of persons affected. Ordinances which limit occupancy in single family zones to persons related by blood or marriage or to specified numbers of unrelated persons do not illegally discriminate against disabled persons in that disabled persons related by blood or marriage may establish a residence in single family zones which meets valid local density limitations. Groups of unrelated disabled persons who wish to reside together and whose numbers are greater than permitted in a single family zone can establish their residence in an appropriate multi-family zone. Plaintiffs provide adequate multi-family residential housing opportunities and their density limits are based on neutral and objective criteria. Plaintiffs seek a declaration that the

occupancy limitations of the plaintiffs' single family residential zones established by their zoning ordinances are valid on their face and do not violate the provisions of the Fair Housing Act Amendments of 1988. Plaintiffs further seek a declaration that the differential construction and fire safety requirements of the Washington State Building Code based on its definition of family are also valid on their face and not in violation of the Fair Housing Act.

### 9. PRAYER FOR RELIEF

9.1. The allegations of the preceding divisions 1-8 and the paragraphs thereof are specifically incorporated into each of the following counts and prayers for relief as fully as if herein set forth.

9.2. WHEREFORE, plaintiffs City of Edmonds and Everett, request that the Court enter an Order affording Plaintiffs the following relief:

9.2.1. Declare Edmonds Community Development Code Sections 21.30.010, 21.90.080 and 16.20.010(a)(1); Everett Zoning Code Section 3.010(64) and Use Standard Table 14-01; and the Washington State Building Code, Section 407 UBC, 1988 edition valid on their face and not violative of the Fair Housing Act or the Fair Housing Act Amendments of 1988 and their respective protections from unlawful discrimination against disabled persons.

9.2.2. Enjoin and restrain the U.S. Department of Housing and Urban Development, Secretary Jack Kemp, Regional Director Richard L. Bauer, and HUD's agents and employees from relying on or applying any

definition or interpretation of Fair Housing Act Amendments of 1988, which would find the Plaintiffs' single-family definitions and the occupancy limits applicable to their respective single-family zones to be invalid on their face and, therefore, in violation of the Fair Housing Act Amendments of 1988.

9.2.3. Such other necessary and further relief as the court in its discretion may grant, including but not limited to, costs and attorney fees incurred herein.

Respectfully submitted this 13 day of February, 1991.

OGDEN MURPHY WALLACE

By: /s/ W. Scott Snyder  
WSBA No. 12835

/s/ Phillip C. Raymond  
WSBA No. 12998  
Attorneys for  
City of Edmonds  
and City of Everett

Honorable William L. Dwyer  
UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CITY OF EDMONDS,	)	
et al.,	)	
	)	
Plaintiffs,	)	
	)	NO. C91-215WD
v.	)	
WASHINGTON STATE BUILDING	)	
CODE COUNCIL, et al.,	)	
	)	
Defendants.	)	
<hr/>		
UNITED STATES OF AMERICA,	)	
	)	NO. C91-1273WD
Plaintiff,	)	
	)	DECLARATION
v.	)	OF
CITY OF EDMONDS,	)	ROBERT
	)	DELANEY
Defendant.	)	
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My name is Robert Delaney and I make this declaration pursuant to the provisions of 28 U.S.C. 1746.

1. Currently I am the Residential Services Manager, Division of Alcohol and Substance Abuse (DASA), Washington State Department of Social and Health Services (DSHS).

2. Among my responsibilities are facilitating the establishment of self-run, self-supporting homes for recovering alcoholics and addicts in communities within the State of Washington.

2. The State of Washington receives federal block grant funds for drug and alcohol abuse and mental health services. As a condition of the receipt of those funds, the state is required by the Anti-Drug Abuse Act of 1988, 42 U.S.C. 300z-4a, to establish, directly or through the provision of a grant or a contract to a non-profit private entity, a \$100,000 revolving fund for the purpose of providing loans of not more than \$4,000.00 to groups of recovering alcoholics or drug addicts to cover the costs of establishing housing in which those recovering individuals may reside in groups of not less than four. Loans made from the revolving funds must be repaid within two years. This Department makes loans only to entities which agree that (a) the use of alcohol and illegal drugs in the group home will be prohibited; (b) any resident who uses alcohol or illegal drugs will be expelled from the home; (c) the residents of the home will pay all costs of the home, including rent and utilities; and (d) the residents of the group home will, by majority vote, establish policies governing residence in the home, including admissions policies.

3. DSHS has made start-up loans to seventeen Oxford Houses in eleven communities, including Oxford House-Edmonds, from the revolving fund.

4. Under this program the number of persons that a proposed Oxford House would contain is a critical factor for the following reasons:

- A. A significant number of individuals residing in Oxford Houses are receiving public financial assistance and, therefore, have



limited ability to pay for safe, sober, affordable housing in areas conducive to continued recovery. The financial benefits of grouping several recovering individuals in one home is that the combined purchasing power allows them to access a much more desirable housing arrangement.

- B. Another benefit inherent in a large number of recovering individuals residing in a single residence is the support the group provides to individuals, either at mandatory weekly house meetings or simply through association.
- C. The population of any Oxford House is constantly in transition with some individuals leaving (most because it's time for them to integrate back into mainstream life), other individuals coming out of treatment and becoming part of an Oxford House for the first time, and still others continuing their Oxford House program. Stability is a major reason for the success of the Oxford House program and an important reason Oxford Houses remain stable is due largely to the number of individuals required to make them work, both financially and programmatically. Fewer individuals would have a definite negative impact on the ability of a house to maintain a core group throughout these transitions and would surely jeopardize their success and existence.

5. My involvement in the establishment of the Edmonds Oxford House was that of an administrator. Soon after Edmonds Oxford House was rented from Herb Hamilton, the landlord, I met with Mark Spence (the

DASA-contracted outreach person) at the house for the purpose of delivering loan funds, touring the house, and meeting the landlord and the residents. Once neighborhood concern regarding the Oxford House became apparent, a plan was formulated by Mr. Spence and the residents of the house to hold a neighborhood meeting for the purpose of informing those concerned about the Oxford House program. Mr. Spence informed me of the plan and I agreed that it was a good first step. The meeting went well and to my knowledge there have been no further complaints from the neighbors. However, quite some time after the community meeting I received a telephone call from the Edmonds city planner. He wanted to discuss concerns the city had with Oxford House's policy of having more than five unrelated individuals in a single family residence. I offered him the same explanation as made in the three points above. I heard nothing more about the situation at the Oxford House in Edmonds until the national office of Oxford House, Inc., in Virginia informed me about the pending litigation.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 27th day of April 1991.

/s/ Robert Delaney  
ROBERT DELANEY

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Hon. William L. Dwyer

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CITY OF EDMONDS,	)	
WASHINGTON, a	)	No. C 91-215 WD
municipal corporation	)	
and CITY OF EVERETT,	)	
WASHINGTON, a	)	AMENDED ANSWER
municipal corporation,	)	AND COUNTERCLAIMS
	)	OF DEFENDANTS
Plaintiffs,	)	OXFORD HOUSE, INC.
	)	HERB HAMILTON,
v.	)	OXFORD HOUSE-
WASHINGTON STATE	)	EDMONDS AND HOYT
BUILDING CODE	)	RECOVERY HOUSE
COUNCIL, STATE OF	)	
WASHINGTON,	)	
OXFORD HOUSE, INC.,	)	
a Maryland	)	
not-for-profit	)	
corporation, HERB	)	
HAMILTON, OXFORD	)	
HOUSE-EDMONDS, an	)	
unincorporated	)	
Washington association,	)	
and HOYT RECOVERY	)	
HOUSE, an	)	
unincorporated	)	
Washington association,	)	
Defendants.	)	
	)	

Defendants Oxford House, Inc., Herb Hamilton,  
Oxford House-Edmonds and Hoyt Recovery House

("Defendants"), in answer to the second amended complaint of Plaintiffs City of Edmonds and City of Everett, respectfully deny each and every allegation contained therein not expressly admitted below. Defendants further respond to each separate paragraph of the complaint as follows:

I.

1. Admit paragraph 1.1.
2. Admit paragraph 2.1.
3. Deny that venue lies under 28 U.S.C. 1391(e).
4. PARTIES

4.1. Aver that Defendants lack sufficient knowledge upon which to form a belief as to the allegations contained in paragraph 4.1.

4.2. State that the provisions of RCW 19.27 speak for themselves.

4.3. Admit that Oxford House, Inc. is a non-profit organization. Admit that Oxford House, Inc., assists recovering alcoholics and drug addicts to establish self-run, self-supported residential housing, ("individual recovery houses"), and that some of these hold membership charters from Oxford House, Inc., ("individual Oxford Houses"). Deny all other allegations in the first sentence of paragraph 4.3. Deny that Oxford House, Inc. operates or seeks to operate any residential treatment facilities or "3/4 way houses" for recovering alcoholics and drug addicts in Edmonds and Everett. Deny that individual recovery houses or individual Oxford Houses

are residential treatment facilities or "3/4 way houses." Admit that individual recovery houses or individual Oxford Houses, including Oxford House-Edmonds and the individual recovery house presently at 3232 Hoyt, Everett, Washington ("Hoyt Recovery House"), are self-governing. To the extent that it is alleged that individual Oxford Houses, including Oxford House-Edmonds, are not single-sex residences, this allegation is denied. To the extent that it is alleged that Hoyt Recovery House is not a single-sex residence, this allegation is denied. Admit that individual Oxford Houses consist of groups of 8 to 25 adults. To the extent that it is alleged that Oxford House-Edmonds or Hoyt Recovery House have more than 12 residents, this allegation is denied. Admit that individual recovery houses and individual Oxford Houses, including Oxford House-Edmonds and Hoyt Recovery House, are established for the purpose of providing mutual support to recovering drug addicts and alcoholics. To the extent that the last sentence of paragraph 4.3 alleges that Oxford House, Inc. is solely responsible for the founding of new individual recovery houses and new individual Oxford Houses, this allegation is denied. To the extent that it is alleged that the phrase "similar facilities," contained in the last sentence of paragraph 4.3 refers to residential treatment facilities or "3/4 way houses," this allegation is denied.

4.4. Admit the allegations of paragraph 4.4.

4.5. Admit the allegations of the first sentence of paragraph 4.5. Deny that Oxford House-Edmonds operates a residential treatment facility or "3/4 way house" in Edmonds, Washington.

4.6. Admit that there is an individual recovery house presently at 3232 Hoyt, Everett, Washington, known as Hoyt Recovery House. Aver that Hoyt Recovery House is the successor-in-interest to Oxford House-Hoyt. Admit to all other allegations of the first sentence of paragraph 4.6. Deny that Hoyt Recovery House operates a residential treatment facility or "3/4 way house" in Everett, Washington.

## 5. CITY OF EDMONDS

5.1. Admit that Mark Spence is an employee of Oxford House, Inc. To the extent that it is alleged that Mark Spence is an employee of Oxford House-Edmonds, this allegation is denied. To the extent that it is alleged that Oxford House, Inc., leases the residence at 8407 216th Street S.W., Edmonds, Washington, this allegation is denied. To the extent that it is alleged that the phrase "3/4-way House", contained in the first and second sentences of paragraph 5.1, refers to a residential treatment facility, this allegation is denied. Admit that Mark Spence provided information concerning Oxford House-Edmonds to the neighbors of that residence. Deny that Exhibit A is a true and correct copy of the Oxford House, Inc. circular. State that Exhibit A speaks for itself. Aver that Defendants lack sufficient knowledge upon which to form a belief as to the allegations concerning the origin of the handwritten comments on Exhibit A. Aver that Defendants lack sufficient knowledge upon which to form a belief as to the allegations concerning the position of Plaintiffs with regards to the content of the handwritten comments on Exhibit A.



5.2. To the extent that it is alleged that the phrase "3/4-way house" refers to a residential treatment facility, this allegation is denied. Aver that Defendants lack sufficient knowledge upon which to form a belief as to the allegation that neighbors complained to the City of Edmonds. Aver that Defendants lack sufficient knowledge upon which to form a belief as to the allegation concerning the nature and substance of such complaints, if any; e.g., that residents had knowledge of specific provisions of the Edmonds Community Development Code or cited these provisions to city officials or based their complaints solely upon these provisions. State that Chapter 16.20, Section 16.20.010(a)(1), Section 21.90.080, and Section 21.30.010 of the Edmonds Community Development Code speak for themselves.

5.3. Admit that Duane Bowman sent a letter to Mr. Spence on July 20, 1990. State that Exhibit E speaks for itself. Admit that a copy of this July 20, 1990 letter was mailed to Herb Hamilton. Aver that Defendants lack sufficient knowledge upon which to form a belief as to any other allegations contained in paragraph 5.3.

5.4. Admit that Defendants Oxford House, Inc. and Herb Hamilton filed complaints with the United States Department of Housing and Urban Development. State that Exhibit F speaks for itself. Aver that Defendants lack sufficient knowledge upon which to form a belief as to whether the City of Edmonds was served with such complaints. Deny any other allegations in paragraph 5.4.

5.5. Admit that the City of Edmonds filed criminal complaints against defendant Herb Hamilton, and against Mark Spence and Clayton Earls, respectively.

Aver that Defendants lack sufficient knowledge upon which to form a belief as to why these criminal complaints were withdrawn. Admit that Mr. Earls was a resident of Oxford House-Edmonds. To the extent that it is alleged that the phrase "3/4-way house" refers to a residential treatment facility, this allegation is denied.

5.6. Aver that Defendants lack sufficient knowledge upon which to form a belief as to any allegations contained in paragraph 5.6.

5.7. State that 42 U.S.C. § 3602(h) speaks for itself.

5.8. State that Title 24, Code of Federal Regulations, Section 100.201(a)(2) speaks for itself. Admit that the residents of residences affiliated with Oxford House, Inc., including Oxford House-Edmonds, are recovering alcoholics and drug addicts who are not abusing illegal drugs, and are entitled to the protection of the Fair Housing Act, as amended.

## 6. CITY OF EVERETT

6.1. Deny that Ken Westphal is an agent of Oxford House, Inc. or of Hoyt Recovery House. State that Exhibit G speaks for itself. Deny that Exhibit G indicates that Oxford House, Inc. is the tenant of the residence at 3232 Hoyt. Deny that Oxford House, Inc., is the tenant of the residence of 3232 Hoyt. To the extent that it is alleged that the phrase "Everett 3/4 way House" refers to a residential treatment facility, this allegation is denied. To the extent that it is alleged that Hoyt Recovery House is a transitional housing facility, this allegation is denied.

6.2. To the extent that it is alleged that the phrase "Everett 3/4 Way house" refers to a residential treatment facility, this allegation is denied. Admit that Hoyt Recovery House is located at 3232 Hoyt, Everett, Washington. Aver that Defendants lack sufficient knowledge to form a belief as to whether 3232 Hoyt is in an R-5 Core Residential zone. State that the Everett Zoning Code speaks for itself.

6.3. State that the Washington state Building Code, Section 303(a) speaks for itself.

6.4. Deny that Exhibit G states that Hoyt Recovery House would be operated by Oxford House, Inc. State that Exhibit G speaks for itself. To the extent that it is alleged that Hoyt Recovery House was or is operated by Oxford House, Inc., this allegation is denied. To the extent that it is alleged that the phrase "3/4 way house" refers to residential treatment facility, this allegation is denied. To the extent it is alleged that Hoyt Recovery House is not a single-sex residence, this allegation is denied. To the extent the second sentence of paragraph 6.4 contains a legal conclusion that the number of residents of Hoyt Recovery House exceeds the occupancy limits of the Everett Zoning Code, Defendants state that the Everett Zoning Code speaks for itself. Admit that the residents of Hoyt Recovery House are recovering alcoholics and drug addicts.

6.5. Aver that Defendants lack sufficient knowledge upon which to form a belief as to all allegations contained in the first sentence of paragraph 6.5. To the extent the first sentence of paragraph 6.5 alleges that Ken

Wastphal is an agent of Oxford House, Inc., this allegation is denied. Aver that Defendants lack sufficient knowledge as to form a belief as to the allegation concerning the basis of Mr. Tyler's notification, if any. Admit that more than eight persons reside at Hoyt Recovery House. State that the Washington state Building Code speaks for itself.

## 7. STATE OF WASHINGTON

7.1. The allegations contained in paragraphs 7.1 to 7.7 are not asserted against Defendants and do not require answer by Defendants. State that all laws and regulations cited in paragraphs 7.1 to 7.7 speak for themselves. State that the draft model ordinance of the Washington state Department of Community Development, discussed in paragraph 7.6, speaks for itself. State that all exhibits cited in paragraph 7.1 to 7.7 speak for themselves.

## 8. INJURY ALLEGATIONS

8.1 The allegations contained in paragraph 8.1 are not asserted against Defendants and do not require answer by Defendants. By order of this court, the United States Department of Housing and Urban Development ("H.U.D.") was dismissed as defendants from this action. Defendants aver that the injury allegations concerning H.U.D. in paragraph 8.1 to 8.8 are without merit.

8.2. Deny the allegations contains in paragraph 8.2.



8.3. Aver that defendants lack sufficient knowledge to form a belief as to the allegations contained in the third sentence of paragraph 8.3. Deny all other allegations contained in paragraph 8.3.

8.4. State that Title 24, Code of Federal Regulations § 100.10(3) speaks for itself. Deny all other allegations contained in paragraph 8.4.

8.5. State that RCW 19.27 speak for itself. Aver that Defendants lack sufficient knowledge upon which to form a belief as to any other allegations contained in paragraph 8.5.

8.6. Deny the allegations contained in paragraph 8.6.

8.7. Deny the allegations contained in paragraph 8.7. To the extent that it is alleged that the phrase "3/4 way house" refers to a residential treatment facility, this allegation is denied.

8.8. Deny all allegations contained in paragraph 8.8.

## II.

### AFFIRMATIVE DEFENSES

9. Defendants hereby restate all responses set forth by Defendants in paragraphs 1 through 8.8 above.

10. Plaintiffs' Complaint fails to state a claim upon which relief can be granted.

## III.

### COUNTERCLAIMS

11. Defendants hereby restate all responses set forth by Defendants in paragraphs 1 through 10 above.

12. Jurisdiction of these counterclaims lies under 28 U.S.C. § 1331, 28 U.S.C. § 1343(a)(3), 42 U.S.C. § 1983 and 42 U.S.C. § 3613(a)(1)(A). Venue for these claims rests under 28 U.S.C. § 1391(b).

### Statement of Facts

13. Oxford House, Inc. assists recovering alcoholics and drug addicts to establish self-governing, self-supporting residences. It also serves as an information clearinghouse for these residences.

14. Oxford House-Edmonds and Hoyt Recovery House are self-governing, self-financing residences. Both were established by recovering alcoholics and drug addicts who then resided in the homes. Each house is a community in which the residents support and care for each other in order to help themselves control and master their alcoholism or drug addictions.

15. Oxford House, Inc. has no role in the affairs of either house, and provides no financial support to either house. Oxford House, Inc. assisted the residents of Oxford House-Edmonds and Hoyt Recovery House in locating a house and landlord, and assisted them with their applications for start-up loans from the State of Washington under the Anti-Drug Abuse Act of 1988, 42 U.S.C. § 300x-4a.



16. Oxford House-Edmonds leases its premises from Herb Hamilton.

17. Oxford House-Edmonds holds a charter from Oxford House, Inc. To hold a charter, Oxford House-Edmonds must expel any member who uses drugs or alcohol, be financially self-supporting and be democratically governed. Hoyt Recovery House, pursuant to 42 U.S.C. § 300x-4a, is also self-financing, democratically governed, and expels any resident who uses drugs or alcohol.

18. Oxford House-Edmonds has 10 male residents. Hoyt Recovery House has 11 male residents. The residents live in a supportive, alcohol-free and drug-free home. Any member who is found to use alcohol or drugs, whether in the house or not, is expelled.

19. Each house is self-run and self-supporting. The residents elect a President, Treasurer, Comptroller and Secretary. The residents have weekly group meetings. All votes are on a majority basis, except an 80% vote is required to admit a new member.

20. The residents at Oxford House-Edmonds and Hoyt Recovery House benefit substantially from living as a single housekeeping unit. The residents relate to each other like a family. The emotional and mutual support and bonding given each resident in support of his recovery from the mutually-shared tragedy of drug addiction or alcoholism is the equivalent of the type of love and support received in a traditional family.

21. The residents of each house function like a family. The residents of the house share cooking, shopping,

cleaning and decision-making responsibilities for their respective houses, as well as the expenses for running the house. They share means with each other. They live together and share the common rooms in the house and are jointly responsible for performing all of the household chores.

22. The residents of the two houses have conducted themselves as families in other ways. The residents of each house chose to live in good, safe, residential neighborhoods, and to rent single family dwellings. The out-sides of Oxford House-Edmonds and Hoyt Recovery House are indistinguishable as to use or function from the surrounding single family homes in the neighborhood.

23. Having a home is essential to each resident's successful control of his dependency. A home, unlike separate apartments, allows the residents to interact with each other, form friendships, foster cohesiveness, and allows the residents to support each other in controlling their drug and alcohol addictions.

24. Each house needs several residents to successfully function and remain financially self-sufficient. Most of the residents are employed. However, some must still rely on public assistance. The zoning-imposed limits on unrelated persons living together would prevent the residents from affording their living expenses or from achieving the sense of community needed to make the house work.

25. Oxford House-Edmonds and Hoyt Recovery House are not halfway houses or 3/4-way houses. They have no government sponsorship or regulation. They are

not treatment facilities, residential or otherwise. They have no paid or volunteer staff. They are not transitional; a resident may stay as long as he likes so long as he pays his bills and refrains from using drugs or alcohol.

26. In July and August of 1990, the City of Edmonds first tried to prevent any residents from moving into Oxford House-Edmonds, and then attempted to arrest and convict Herb Hamilton, its landlord, Mark Spence, a representative of Oxford House, Inc., and a resident of that house, Clayton Earls, for alleged zoning code violations.

27. In the fall of 1990, the City of Everett denied a construction permit application submitted by the landlord of Hoyt Recovery House, on the basis that the residents of Hoyt Recovery House did not comply with the definition of a family in the City's zoning code.

28. In January, 1991, the City of Everett, referring to the recent passage of the federal Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, enacted a new definition of "family" to limit the number of disabled persons who could live together to 8. Everett City Ordinance No. 1770-91; See Exhibit H of Plaintiffs' Complaint. Officials of the City of Everett rely upon this ordinance and the Everett Zoning Code in their attempt to prevent more than 8 people from residing at Hoyt Recovery House.

29. The acts of the Cities of Edmonds and Everett would deny the residents of Oxford House-Edmonds and Hoyt Recovery House their constitutional and statutory rights to live normal lives. If forced to reduce the number of residents, the houses cannot support themselves and

will cease to function. Without a supportive home environment, many if not most residents will fail to control their alcoholism and drug dependencies.

30. Further, the cities of Edmonds and Everett have, intentionally or unintentionally, singled out the residents of the houses for discriminatory treatment. Defendants allege that both cities have a policy or practice of lax enforcement of their zoning restrictions regarding the number of persons who may live together in a single-family zone, and that the enforcement of these codes against the residents of Oxford House-Edmonds and Hoyt Recovery House is an extraordinary exception from these policies or practices. Defendants further allege that the enforcement of the cities' zoning codes is either motivated by discriminatory intent, or works a discriminatory impact upon the residents of Oxford House-Edmonds and Hoyt Recovery House.

31. In addition, the City of Everett has intentionally discriminated against Hoyt Recovery House by denying its landlord's construction permit. The City of Everett's stated ground for denying the permit was because the residence was located in a single-family zone. Yet of the thirteen other lots which front Hoyt Street's 3200 block, over half are occupied by other than single-family homes: two professional office buildings with parking lots, two sixplexes (on one lot), one twelve-unit apartment building, and three houses converted into apartments, containing six, five, and three apartments, respectively. In addition, Rucker Street, the street immediately west of Hoyt Street, is a four-lane boulevard fronted, on both sides, by commercial buildings. Across the street from Hoyt Recovery House and to the south is a six-unit



apartment building. Both the 3300 and 3400 blocks between Hoyt and Rucker are occupied by the main Everett Post Office. Across the street from the Post Office, in the 3300 block of Hoyt, is the Planned Parenthood building, a combination office building and medical clinic.

#### Counterclaims

32. The acts of the City of Edmonds in trying to arrest and convict Herb Hamilton, constituted an unlawful act which served to coerce, intimidate, threaten and interfere with Herb Hamilton on account of his having aided and encouraged the residents of Oxford House-Edmonds in the exercise or enjoyment of their constitutional and statutory rights, in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, and the Washington state Constitution, Article 1, sections 3 and 12.

33. The acts of the City of Edmonds in trying to arrest and convict Mark Spence constituted an unlawful act which served to coerce, intimidate, threaten and interfere with Mark Spence on account of his having aided and encouraged the residents of Oxford House-Edmonds in the exercise or enjoyment of their constitutional and statutory rights, in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, and the Washington state Constitution, Article 1, sections 3 and 12.

34. The acts of the Cities of Edmonds and Everett in trying to preclude the establishment of Oxford House-Edmonds and Hoyt Recovery House, and, in the case of Edmonds, to close down Oxford House-Edmonds and to dispossess and arrest its residents, constituted separate unlawful acts each of which served to coerce, intimidate, threaten and interfere with the residents of the houses in the exercise and enjoyment of their constitutional and statutory rights, in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, and the Washington state Constitution, Article 1, sections 3 and 12.

35. The separate acts of the Cities of Edmonds and Everett in trying to preclude the establishment of Oxford House-Edmonds and Hoyt Recovery House, and, in the case of Edmonds, to close down Oxford House-Edmonds and to dispossess and arrest its residents, which served to coerce, intimidate, threaten and interfere with the residents of the houses, were made on account of those residents having exercised and enjoyed their constitutional and statutory rights, in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, and the Washington state Constitution, Article 1, sections 3 and 12.

36. The acts of the Cities of Edmonds and Everett were separate attempts by these cities to make unavailable and deny housing to the residents of Oxford House-Edmonds and Hoyt Recovery House on the basis of these residents' disabilities, in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States



Constitution, the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, and the Washington state Constitution, Article 1, sections 3 and 12.

37. The acts of the Cities of Edmonds and Everett constituted separate failures by these cities to make reasonable accommodations in their ordinances, codes and rules for the disabled residents of Oxford House-Edmonds and Hoyt Recovery House, respectively, in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, and the Washington state Constitution, Article 1, sections 3 and 12.

38. The zoning codes of the Cities of Edmonds and Everett, and Everett City Ordinance No. 1770-91, purport to require and/or permit action which would be a discriminatory housing practice in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, and the Washington state Constitution, Article 1, sections 3 and 12.

39. The zoning codes of the Cities of Edmonds and Everett, and Everett City Ordinance No. 1770-91, discriminate in favor of related persons against unrelated disabled persons, in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, and the Washington state Constitution, Article 1, sections 3 and 12.

40. Everett City Ordinance No. 1770-91 constitutes an unconstitutional pre-emption of federal legislation, namely, the Fair Housing Act, as amended, 42 U.S.C.

§ 3601 *et seq.*, and the Anti-Drug Abuse Act of 1988, 42 U.S.C. § 300x-4a, and is therefore invalid.

#### IV.

#### RELIEF

WHEREFORE, defendants Oxford House, Inc., Herb Hamilton, Oxford House-Edmonds and Hoyt Recovery House request that the court grant the following relief:

41. Dismiss plaintiff's complaint.

42. Declare that:

42.1. The Everett Community Development Code, the Everett Zoning Code and Everett City Ordinance No. 1770-91 are invalid, facially and/or as applied, under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, the Fair Housing Act of 1968, as amended, 42 U.S.C. § 3615, and Article 1, sections 3 and 12, of the Washington state Constitution.

42.2. Everett City Ordinance No. 1770-91 constitutes an unconstitutional pre-emption of federal legislation, namely, the Fair Housing Act, as amended, 42 U.S.C. § 3601 *et seq.*, and the Anti-Drug Abuse Act of 1988, 42 U.S.C. § 300x-4a, and is therefore invalid;

42.3. The acts of the cities of Edmonds and Everett, as set forth above, violated the Equal Protection Clause of the Fourteenth Amendment, the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, and Article 1, sections 3 and 12, of the Washington state Constitution.

43. Grant injunctive relief under the Fair Housing Act, 42 U.S.C. § 3613(c)(1), and under 42 U.S.C. § 1983:

43.1. Prohibiting the City of Edmonds and the City of Everett from enforcing their respective single-family zone occupancy limits against the residents of Oxford House-Edmonds and Hoyt Recovery House, respectively;

43.2. Prohibiting the City of Everett from enforcing its Ordinance No. 1770-91 in a way which would prevent more than 8 disabled persons from residing at Hoyt Recovery House;

43.3. Requiring the City of Everett and the City of Everett to consider and grant any and all permits as if Oxford House-Edmonds and Hoyt Recovery House, respectively, were related families occupying single family homes;

43.4. Prohibiting the City of Edmonds or the City of Everett from withholding city services on the ground that either Oxford House-Edmonds or Hoyt Recovery House is not a related family.

43.5. Prohibiting the City of Everett and the City of Everett from mandating any housing safety requirements for Oxford House-Edmonds and Hoyt Recovery House, respectively, above those required for a related family occupying a single family home.

43.6. Prohibiting any agents of the City of Edmonds or the City of Everett from harassing, citing, arresting, indicting, prosecuting or convicting any resident of Oxford House-Edmonds or Hoyt Recovery House for violations of plaintiffs' zoning codes or Everett City

Ordinance No. 1770-91 during the pendency of this litigation.

44. Award actual damages to Defendants under 42 U.S.C. § 1983 for harms suffered due to Plaintiffs' violations of the Equal Protection Clause of the Fourteenth Amendment, in an amount to be determined at trial.

45. Award actual and punitive damages to Defendants under the Fair Housing Act, 42 U.S.C. § 3613(c)(1) for Plaintiffs' violations of that Act, as amended, in an amount to be determined at trial.

46. Grant Defendants attorneys' fees and costs pursuant to the Fair Housing Act, 42 U.S.C. § 3613(c)(2), and 42 U.S.C. § 1988.

47. Such other relief as may be deemed lawful and equitable by this Court.

DATED this 19th day of August, 1991.

RIDDELL, WILLIAMS, BULLITT &  
WALKINSHAW

By /s/ Robert I. Heller  
\*Robert I. Heller  
WSBA No. 14375  
Scott Schrum  
WSBA No. 19726

Attorneys for Defendants Oxford  
House, Inc. and Herb Hamilton

\*Counsel of record

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
SEATTLE

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
vs.	)	No. C91-1273
	)	COMPLAINT
CITY OF EDMONDS,	)	
WASHINGTON,	)	
a Municipal Corporation,	)	
Defendant.	)	

The United States of America alleges:

1. This action is brought by the United States to enforce the provisions of the Fair Housing Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§3601-3619.

2. This court has jurisdiction over this action under 28 U.S.C. §1345 and 42 U.S.C. §3614(a) and (b)(1)(A).

3. The defendant City of Edmonds is a municipality organized under the laws of the State of Washington, and is located in Snohomish County, Washington, within the Western District of Washington.

4. The City of Edmonds exercises zoning authority over land within its boundaries and, pursuant to that authority, has enacted and enforces zoning regulations set forth in the Edmonds Community Development Code ("ECDC").

5. Oxford House, Inc., is a non-profit, tax-exempt, Delaware corporation with its principal place of business

in Virginia. Oxford House, Inc., assists in establishing self-governed, self-supported residences for persons recovering from drug and/or alcohol addiction.

6. Oxford House Edmonds is an unincorporated association operating under a charter issued by Oxford House, Inc., and is comprised of the residents of the property located at 8704 216th Street, S.W., within the City of Edmonds, Washington. Oxford House Edmonds uses this property, pursuant to the charter issued to it by Oxford House, Inc., as a group home for approximately 12 recovering alcoholics and drug addicts.

7. The residents of Oxford House Edmonds are individuals recovering from alcohol and drug addiction and are handicapped within the meaning of 42 U.S.C. §3602(h) and its implementing regulation found at 24 C.F.R. §100.201 (1989).

8. Oxford House Edmonds leases the property at 8704 216th Street, S.W., from Herb Hamilton of 902 12th Place North, Edmonds, Washington, 98020.

9. The property at 8704 216th Street, S.W., is located within an area zoned RS (single-family residential) under the ECDC and is a dwelling within the meaning of 42 U.S.C. §3602(b).

10. Under the ECDC, the City of Edmonds permits single-family dwelling units in RS zones.

11. Under the ECDC, the City of Edmonds defines, in pertinent part, "family" to mean two or more persons related by genetics, adoption, or marriage, or a group of five or fewer persons who are not related by genetics, adoption, or marriage.



12. Thus, City of Edmonds has, through the ECDC, made it unlawful for more than five unrelated persons to live together in a residence located in an RS zone.

13. The City of Edmonds, by and through its agents, has notified Oxford House Edmonds that its use of 8704 216th Street, S.W., described in paragraph 6, above, violates the ECDC by contravening the prohibition on more than five, unrelated persons residing together in a dwelling in an RS zone, and that the City of Edmonds intends to enforce the ECDC against Oxford House Edmonds.

14. The City of Edmonds, by and through its agents, has issued criminal citations to Mark Spence, Regional Representative, Oxford House, Inc., Herb Hamilton, and one or more residents of Oxford House Edmonds, for violating the ECDC by causing more than five unrelated individuals to reside together at 8704 216th Street, S.W.

15. While the use of the property at 8704 216th Street, S.W., as a residence for approximately 12 recovering alcoholics and drug addicts does not satisfy the ECDC's definition of a use allowed in an RS zone, the persons who live in the group home maintain a single housekeeping unit, eat their meals and socialize together, and otherwise function in a manner similar to a traditional family.

16. Notwithstanding the fact that the ECDC's definition of family is not satisfied, the ability of Oxford House Edmonds to use the property at 8704 216th Street, S.W., for the purposes described above in paragraph 6, is reasonable and necessary to allow persons with handicaps an equal opportunity to use and enjoy residential dwellings. The City of Edmonds would be reasonably

able to accommodate this use of the property in the RS zone without financial or administrative burden on the City of Edmonds. Such an accommodation would require no fundamental alteration of the City of Edmonds's zoning scheme.

17. On 8 August 1990, Oxford House Edmonds and Oxford House, Inc., filed with the Secretary of the Department of Housing and Urban Development ("HUD") a complaint of housing discrimination against the City of Edmonds and its Mayor, Larry S. Naughten, pursuant to 42 U.S.C. §3610, alleging discrimination on the basis of handicap in violation of the Fair Housing Act, 42 U.S.C. §3601-3619.

18. On 24 August 1990, Herb Hamilton filed with the Secretary of HUD a complaint of housing discrimination against the City of Edmonds and its Mayor, Larry S. Naughten, pursuant to 42 U.S.C. §3610, alleging discrimination on the basis of handicap in violation of the Fair Housing Act, 42 U.S.C. §3601-3619.

19. 29 April 1991, the General Counsel of HUD, noting that the complaints raised significant issues involving the legality of a local zoning ordinance, referred these matters to the Attorney General pursuant to Sections 810(e)(2) and 810(g)(2)(C) of the Fair Housing Act.

20. The Attorney General is authorized by 42 U.S.C. §3614(a) and (b)(1)(A) to bring this action upon receipt of the referral by the Secretary of HUD described in paragraph 21, above.

21. The actions of the City of Edmonds referred to in paragraphs 10 through 15, above, constitute a refusal by the City of Edmonds to make reasonable accommodations in its zoning rules, policies, and practices when such accommodations may be necessary to afford Oxford House Edmonds an equal opportunity to use and enjoy the dwelling at 8704 216th Street, S.W. This refusal violates 42 U.S.C. §3604(f)(3)(B)

22. Persons who have been the victims of the City of Edmonds's discriminatory practices are aggrieved persons within the meaning of 42 U.S.C. §3602(i), and have been denied their right to equal opportunity in housing and may have suffered other actual damages in the form of economic loss and emotional distress as a result of the defendant's conduct.

WHEREFORE, the United States prays that the court enter an ORDER:

1. Declaring that the actions of the City of Edmonds described in paragraphs 10 through 15, above, constitute a violation of the Fair Housing Act;

2. Enjoining the defendant, its agents, employees, and successors, and all other persons in active concert or participation with any of them, from interfering with the continued operation of Oxford House Edmonds, located at 8704 216th Street, S.W., Edmonds, Washington, including further prosecution of citations issued in connection with the operation of Oxford House Edmonds;

3. Requiring such action by the defendant as may be necessary to restore all persons aggrieved by the defendant's discriminatory housing practice to the position

they would have occupied but for the defendant's discriminatory conduct;

4. Awarding such damages as would fully compensate each person aggrieved by the defendant's discriminatory housing practices for his or her injuries occasioned by the denial of his or her right to equal housing opportunity, and for economic loss and emotional distress caused by the defendant's discriminatory conduct, pursuant to 42 U.S.C. §3614(d)(1)(B); and

5. Assessing a civil penalty against defendants in an amount of money authorized by 42 U.S.C. §3614(d)(1)(C) in order to vindicate the public interest.

The United States further prays for such additional relief as the interests of justice may require.

Respectfully submitted,

WILLIAM P. BARR  
Acting Attorney General

By:

/s/ John R. Dunne  
JOHN R. DUNNE  
Assistant Attorney General

/s/ Paul F. Hancock  
PAUL F. HANCOCK  
Chief, Housing and Civil  
Enforcement Section

JOAN A. MAGAGNA

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MIKE McKAY  
 United States Attorney

/s/ Susan L. Barnes  
 SUSAN L. BARNES  
 Assistant United States  
 Attorney

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The Honorable William L. Dwyer  
 UNITED STATES DISTRICT COURT  
 WESTERN DISTRICT OF WASHINGTON  
 AT SEATTLE

CITY OF EDMONDS,	)	NO. C 91-215 WD
et al.,	)	
Plaintiffs,	)	PLAINTIFF'S FIRST SET
	)	OF INTERROGATORIES
v.	)	AND REQUESTS FOR
WASHINGTON STATE	)	PRODUCTION TO
BUILDING CODE	)	DEFENDANTS OXFORD
COUNCIL, STATE OF	)	HOUSE, INC., OXFORD
WASHINGTON, et al.,	)	HOUSE-EDMONDS AND
Defendants.	)	HOYT
	)	NO. C 91-1273 WD
UNITED STATES OF	)	
AMERICA,	)	
Plaintiff,	)	
v.	)	
CITY OF EDMONDS,	)	
Defendant.	)	

TO: Oxford House, Inc., Oxford House-Edmonds  
 and Hoyt

AND TO: Robert I. Heller, their attorneys of record

IN ACCORDANCE with F.R.C.P. 26, 33 and 34, you  
 will please answer the following interrogatories sep-  
 arately and fully, under oath, and produce for inspection  
 and copying by plaintiffs, City of Edmonds and the City  
 of Everett, the following designated documents and  
 things in the offices of attorneys for said plaintiffs, Ogden



Murphy Wallace, 2100 Westlake Center Tower, 1601 Fifth Avenue, Seattle, Washington 98101-1686 within thirty days of the date of service of these interrogatories and requests for production upon you.

These interrogatories and requests for production are to be treated as continuing. If information is not available within the time limits of the Civil Rules, you must answer each interrogatory and request for production as fully as possible within the time limit and furnish additional information when it becomes available.

If additional information is discovered between the time of making these answers and the time of trial, these interrogatories and requests for production are directed to that information. If such information is not furnished, the undersigned will move at the time of trial to exclude from evidence any information requested and not furnished.

NOTE: The information sought in these interrogatories and requests for production is intended to include any and all information and witnesses known to defendants, their agents, investigators or attorneys.

#### DEFINITIONS:

Document. As used herein, the word "document" shall mean the original or any copy of any book pamphlet, periodical, letter, memorandum, telegram, report, record, study, handwritten note, map, drawing, working paper, bill, receipt, personal diary, chart, paper, graph, index, tape, data sheet or data processing card, or any other written, recorded, transcribed, punched, taped,

filmed, photographic or graphic matter, however produced or reproduced, to which you now have or at any time have had access.

Identify or Identity. As uses herein, "identify" or "identity" when used in reference to an individual person means to state his full name and present address, his present or last-known position and business affiliation, and his position and affiliation at the time in question. "Identify" or "identity," when used in reference to a document, means to state the date and author, type of document (e.g., letter, memorandum, telegram, chart, etc.) or some other means of identifying it, and its present location or custodian. If any such document was in your possession, but is no longer in your possession or subject to your control, explain the disposition of the document.

INTERROGATORY NO. 1: Prior to leasing the current locations of the Edmonds and Everett houses, were any inquiries or investigations conducted by anyone associated with Oxford House pertaining to purchasing or leasing any facility.

ANSWER: No.

INTERROGATORY NO. 2: If your answer to the preceding interrogatory is in the affirmative, please identify by name, address, title, and telephone number each and every person who participated in any way in each said inquiry or investigation; identify each document pertaining in any way to said inquiry or investigation; and identify by address each and every location considered for leasing by the defendants.

ANSWER:

INTERROGATORY NO. 3: Are there any policies or established practices by anyone or any entity associated with Oxford House for selecting locations for residential facilities. If so, please identify each and every document pertaining in any way to such policies and practices; if there are any such policies or practices that are not written, please describe those in detail.

ANSWER: Yes. These policies are contained in the following two publications: 1) Oxford House, Inc., *Oxford House Manual*. 2) J. Paul Molloy, *Self-Run, Self-Supported Houses for More Effective Recovery from Alcohol and Drug Addiction: A Technical Assistance Manual for Implementation of the Group Recovery Homes Provision or the Anti-Drug Abuse Act of 1988*, Office of Treatment improvement, United States Department of Health and Human Services, Public Health Service, Alcohol, Drug Abuse, and Mental Health Administration.

The Oxford House Manual is attached as Appendix C to the Molloy technical assistance manual.

REQUEST FOR PRODUCTION NO. 1: Please produce a copy of each and every document pertaining in any way to your answers to the preceding two interrogatories.

RESPONSE: At present, Defendants have only one copy of the technical assistance manual (and the Oxford House Manual, which is reprinted in the technical assistance manual). Defendants will make this copy available for review or copying at a mutually convenient time and place.

INTERROGATORY NO. 4: Identify each and every person, document and other resource you used in selecting your locations for Edmonds and Everett houses.

ANSWER:

Edmonds: Seattle Times, July 6, 1990.

Everett: Ken Westphal sought out Mark Spence.

REQUEST FOR PRODUCTION NO. 2: Please produce a copy of each and every document pertaining in any way to your answer to the preceding interrogatory.

RESPONSE: Defendant has no copy of the July 6, 1990 Seattle Times, but submits a copy of this newspaper is available in the Seattle Public Library, 1000 Fourth Avenue, Seattle.

INTERROGATORY NO. 5: Did you take into consideration the zoning category of the area in which the current houses are located as part of your selection process? If so, please identify each and every document pertaining to zoning that you reviewed and identify by name, address, title and telephone number of each and every person with whom zoning was discussed.

ANSWER: No.

INTERROGATORY NO. 6: Identify by name, current address, and current telephone number, each and every resident, past and present, of your Edmonds and Hoyt facilities.

ANSWER: Objection. This interrogatory is overbroad and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving this



objection, Defendants state they will produce the names of the current residents and the house telephone numbers under a mutually acceptable confidentiality agreement, or under a protective order.

INTERROGATORY NO. 7: How many individuals have left each residence. Identify each resident who has left the facility by name, current address, and telephone number and state the reason each left.

ANSWER: Objection. This interrogatory is not reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 8: Have any of the facility's residents, or former residents, been arrested or convicted on any drug or alcohol related offense during the last two years? If so, identify each individual involved, the date of said arrest or conviction, the county where the arrest or conviction took place, and the date of each arrest or conviction.

ANSWER: Objection. This interrogatory is overbroad and not reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 9: Identify each and every other Oxford House facility that has been established in King or Snohomish County, Washington by national Oxford House or any associated entity or person. As to each, please state if it is still in existence, identify the location, and if it failed, please state the reason.

ANSWER: Objection. This interrogatory is not reasonably calculated to lead to the discovery of admissible evidence.

INTERROGATORY NO. 10: Since the date the facilities were established, have the residents of either Oxford House Edmonds, or Oxford House Hoyt been given any training or information regarding Oxford House's recovery program? If so, please identify each individual involved in such instruction or training; identify each and every written material provided the residents; identify the dates of training or instruction.

ANSWER: Oxford House, Inc. has no "recovery program." Mark Spence lived with residents of Oxford House-Edmonds from approximately July 16, 1990 to the beginning of September, 1990. He instructed the charter residents in Oxford House-Edmonds in the procedures of the Oxford House Manual.

Mark Spence visited with the residents of Oxford House-Hoyt on approximately a daily basis from approximately August, 1990 to September, 1990, to instruct them in the procedures of the Oxford House Manual.

REQUEST FOR PRODUCTION NO. 3: Please produce a copy of each and every document identified in the answer to the preceding interrogatory.

RESPONSE: See Defendant's response to Request No. 1, above.

INTERROGATORY NO. 11: With respect to the decision to lease the two current locations for Oxford House-Edmonds and Oxford House Hoyt, please indicate who specifically was involved in making the decision, and explain all efforts undertaken in attempting to lease a residence.

ANSWER: Mark Spence.



With regards to Oxford-Edmonds, Mr. Spence located the house now leased through the real estate ads of the Seattle Times. It was the first house he inquired about.

With regards to Oxford House-Hoyt, Mr. Spence was approached by Ken Westphal. Mr. Westphal owned an existing home in which alcoholics in recovery resided. These residents already rented rooms from Mr. Westphal and later secured a lease from him.

INTERROGATORY NO. 12: Did any entity or person associated with Oxford House make any effort to determine the crime rate or drug trafficking incidents in the areas in which the Edmonds and Oxford House Hoyt facilities were located? If so, please identify each and every person involved in such efforts; identify each and every document which pertains in any way to such efforts; and describe in detail the extent of each and every effort.

ANSWER: Yes. Mark Spence investigated the neighborhood of the house, and was satisfied that it was a good, primarily residential, neighborhood. He and Herb Hamilton discussed that the crime rate in that neighborhood was very low. Mr. Spence believed that, from his experience, this neighborhood would have no or almost no drug trafficking.

REQUEST FOR PRODUCTION NO. 4: Please produce a true and accurate copy of each and every document identified in your answer to the preceding interrogatory.

RESPONSE: No such documents were identified.

INTERROGATORY NO. 13: Please identify each and every person by name, address, title and telephone number who you believe has knowledge pertaining to the claims or defenses alleged in this action. With respect to each person identified, please state the substance of their knowledge concerning this action.

ANSWER: At Oxford House Inc., 9312 Colesville Road, Silver Spring, MD 20901, (301) 587-2916:

1. Steve Polin, Director of Community Affairs, Oxford House: Mr. Polin has general knowledge of the efforts to rent the houses and the subsequent H.U.D. investigation and litigation.
2. Mark Spence, National Representative, Oxford House, Inc.
3. J. Paul Molloy, founder of Oxford House, Inc. and its current President. Mr. Molloy has limited general knowledge of the efforts to rent the houses and the subsequent H.U.D. investigation and litigation.
4. Charles Van Der Burgh, Treasurer, Oxford House, Inc. Mr. Van Der Burgh has limited general knowledge of the efforts to rent the houses and the subsequent H.U.D. investigation and litigation.

Herb Hamilton, landlord, Oxford House-Edmonds. 902 12th Place North, Edmonds, WA 98020, (206) 775-6206. Music teacher, self-employed.

Residents, Oxford House-Edmonds and Hoyt Recovery House.

**REQUEST FOR PRODUCTION NO. 5:** Please produce a true and accurate copy of each and every document (including any video or audio tapes and computer related data sources) that pertain in any way to the claims or defenses alleged in this action.

RESPONSE: Objection. This Request is vague and overbroad. Subject to and without waiving this objection, defendants state that they believe the investigative report authored by Mr. Tim Robison of H.U.D. may be relevant. Plaintiffs may obtain this document as easily as defendants.

REQUEST FOR PRODUCTION NO. 6: Please produce a copy of each and every lease that pertains in any way to the lease of locations Oxford House Edmonds and Oxford House Hoyt.

RESPONSE: A copy of this lease will be made available for copying or review at a mutually convenient time and place.

DATED this 20th day of November, 1991.

OGDEN MURPHY WALLACE

By: /s/ Phillip C. Raymond  
WSBA #12998  
Attorneys for Plaintiffs

ANSWERS AND OBJECTIONS SUBMITTED this 1st day of January, 1992. The undersigned attorney has read and foregoing answers and responses to these discovery requests, and they comply with CR 26(g).

RIDDELL, WILLIAMS, BULLITT  
& WALKINSHAW

By: /s/ Robert I. Heller  
Robert I. Heller  
 WSBA #14375  
 Attorneys for Defendants

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

\_\_\_\_\_, being first duly sworn upon oath, deposes and states as follows:

That \_\_\_\_\_ is \_\_\_\_\_ of defendant(s) in the above-entitled action, has read the foregoing "First Set of Interrogatories and Requests for Production of Plaintiffs to Defendants and Answers Thereto," knows the contents thereof and believes the same to be true.

SIGNED AND SWORN TO before me on \_\_\_\_\_, by

(Seal or Stamp)

Notary Public in and for the State  
of Washington, residing at \_\_\_\_\_  
My appointment expires \_\_\_\_\_

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CITY OF EDMONDS, et al.,	)	NO. C91-215WD
Plaintiffs,	)	
v.	)	CITY OF
	)	EDMONDS' FIRST
UNITED STATES DEPARTMENT	)	REQUESTS FOR
OF HOUSING AND URBAN	)	ADMISSION TO
DEVELOPMENT, et al.,	)	UNITED STATES
Defendants,	)	DEPARTMENT OF
	)	HOUSING AND
	)	URBAN
	)	DEVELOPMENT
UNITED STATES OF AMERICA,	)	
Plaintiff,	)	NO. C91-1273WD
v.	)	
CITY OF EDMONDS,	)	
Defendant.	)	

TO: UNITED STATES DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT; and

TO: HOWARD R. GRIFFIN, its Attorney;

IN ACCORDANCE WITH Fed. R. Civ. P. 26 and 36, will you please admit or deny in writing the following requests for admission within thirty (30) days of the date of service of these requests upon you to attorneys for plaintiff City of Edmonds, Ogden Murphy Wallace, 2100 Westlake Center Tower, 1601 Fifth Avenue, Seattle, Washington 98101-1686. Failure to respond within the allotted time period will result in the requests being deemed admitted.

REQUEST FOR ADMISSION NO. 1: ADMIT OR DENY: The report prepared by the U.S. Department of Housing and Urban Development, Timothy M. Robison, Investigator, with respect to Case No. 10-90-0308-1, does not find any evidence of an intent to discriminate by the City of Edmonds, its City Council, or other officers, agents and employees, against the disabled in the adoption or application of the Edmonds Community Development Code.

ANSWER: Deny. The United States notes that the Department of Housing and Urban Development no longer is a defendant in these actions.

REQUEST FOR ADMISSION NO. 2: ADMIT OR DENY: Plaintiff United States of America has no evidence of an intent to discriminate against the disabled by the City of Edmonds, its City Council, or other offices, agents and employees in the adoption or amendment of the Edmonds Community Development Code.

ANSWER: Deny. The United States notes that the Department of Housing and Urban Development no longer is a defendant in these actions.

REQUEST FOR ADMISSION NO. 3: ADMIT OR DENY: Plaintiff United States of America has no evidence of an intent to discriminate against the disabled by the City of Edmonds, its City Council, or other officers, agents and employees in the application and enforcement of the Edmonds Community Development Code prior to the establishment of Oxford House-Edmonds.

ANSWER: Admit. The United States notes that the Department of Housing and Urban Development no longer is a defendant in these actions.



REQUEST FOR ADMISSION NO. 4: ADMIT OR DENY: Plaintiff United States of America has no evidence of an intent to discriminate against the disabled by the City of Edmonds, its City Council, or other officers, agents and employees in the application and enforcement of the Edmonds Community Development Code against and with respect to the Oxford House-Edmonds.

ANSWER: Deny. The United States notes that the Department of Housing and Urban Development no longer is a defendant in these actions.

REQUEST FOR ADMISSION NO. 5: ADMIT OR DENY: Plaintiff United States of America's allegation of discrimination against the disabled on the part of defendant City of Edmonds arises solely from the wording of the Edmonds Community Development Code and its definition of "family" which limits density in the single family zone as it has been applied to Oxford House-Edmonds and its disabled residents.

ANSWER: Deny. The United States notes that the Department of Housing and Urban Development no longer is a defendant in these actions.

DATED this 16th day of March, 1992.

OGDEN MURPHY WALLACE

By: /s/ W. Scott Snyder  
W. Scott Snyder  
 WSBA #12835  
 Attorneys for Plaintiff  
 City of Edmonds

ANSWERS AND OBJECTIONS SUBMITTED this 10th day of April, 1992. The undersigned attorney has read the foregoing answers and responses to these discovery requests, and they comply with Fed. R. Civ. P. 26 and 36. I

declare under penalty of perjury that the foregoing is true and correct. Executed on this 10th day of April 1992.

By: /s/ Howard R. Griffin  
Howard R. Griffin  
 Attorneys for Defendant  
 United States Department of  
 Housing and Urban  
 Development

State of \_\_\_\_\_ )  
 ) ss.  
 County of \_\_\_\_\_ )

\_\_\_\_\_, being first duly sworn upon oath, deposes and states as follows:

That (he, she) is the \_\_\_\_\_ of the defendant United States Department of Housing and Urban Development in the above-entitled action, has read the foregoing "First Request for Admission to United States Department of Housing and Urban Development," knows the contents thereof and believes the same to be true.

U.S. DEPARTMENT OF HOUSING  
 AND URBAN DEVELOPMENT

By: /s/ \_\_\_\_\_  
 Its: \_\_\_\_\_

SIGNED AND SWORN to before me on \_\_\_\_\_,  
 1992, by \_\_\_\_\_.

/s/ \_\_\_\_\_  
 NOTARY PUBLIC  
 My commission expires: \_\_\_\_\_

Honorable William L. Dwyer

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CITY OF EDMONDS, et al.,	)	
Plaintiffs,	)	
v.	)	NO. C91-215WD
WASHINGTON STATE BUILDING	)	
CODE COUNCIL, et al.,	)	
Defendants.	)	
<hr/>		
UNITED STATES OF AMERICA,	)	NO. C91-1273WD
Plaintiff,	)	
v.	)	<u>DECLARATION</u>
CITY OF EDMONDS,	)	<u>OF MARK A.</u>
Defendant.	)	<u>SPENCE</u>
<hr/>		

DECLARATION

VIRGINIA BEACH, VIRGINIA

MARK A. SPENCE hereby declares as follows:

1. I am the National Representative of Oxford House, Inc., located in Silver Spring, Maryland. I have worked in that capacity for about the past two years.
2. My job entails establishing Oxford Houses, which are group homes for recovering alcoholics and drug addicts, around the United States. In the past two years I have established about 20 Oxford Houses in 15 states.

3. To establish an Oxford House I locate a suitable house and rent it. Considerations of suitability include the size of the house (at least 4-6 bedrooms because an Oxford House cannot function with less than 6 residents), the proximity to public transportation, and the character of the neighborhood. Oxford House, Inc., seeks to establish houses in nice neighborhoods, away from illicit drug activity and opportunities for drug and alcohol abuse, to minimize the likelihood of relapse by a resident.
4. Once I have rented a suitable house, I seek to recruit recovering alcoholics and drug addicts to live there. I do this by making presentations to rehabilitation and detoxification organizations in the community. Only gainfully employed alcoholics and drug addicts in recovery who need support housing are eligible for residence at an Oxford House.
5. The average rent per resident at Oxford Houses around the United States is about \$250.00. Oxford House, Inc., tries to keep the per-resident rent at about this level because its residents are most likely to be minimum-wage employees with limited financial means.
6. I established Oxford House Edmonds in July, 1990. I went to Edmonds and looked at three or four houses before selecting the one at 8704 216th Street, S.W., in Edmonds. I selected this house because it was near public transportation, had no apparent drug activity in the neighborhood, and was large enough to accommodate ten residents.
7. I established Oxford House Edmonds for 10 residents in part because of the economics of the situation. The house rented for \$1,600.00 per month, and I estimated

that an additional \$800.00 per month was needed to pay for utilities and house supplies. Ten residents pay \$240.00 per month would meet these expenses and be within the acceptable rental range. Also, the house could accommodate ten residents since it had six bedrooms, four of which could accommodate two persons each, and two of which were singles.

8. All of the residents of Oxford House Edmonds are members of a twelve-step recovery program and depend on each other's support as an essential part of their recovery. The residents come together as one unit to combat alcoholism and drug addiction.

9. The mutually supportive setting essential to the Oxford House approach could not be sustained with less than six residents. For example, with fewer than six, should one resident relapse and be expelled, the financial strain on the remaining residents would most likely cause the house to fail. Furthermore, at least six are needed to help ensure that two or more persons are always at the house and that no one is likely to be alone at the house at a time when support may be needed. The differing work schedules of residents makes achievement of this goal quite difficult with less than six residents.

/s/ Mark A. Spence  
MARK A. SPENCE

Subscribed and sworn to before  
me this 27th day of April, 1992.

/s/ Carolynn R. Ramsey Commissioned as Carolynn R. Burger  
Notary

My commission expires: March 31, 1996

Hon. William L. Dwyer

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CITY OF EDMONDS,	)	
WASHINGTON, a municipal	)	
corporation and CITY OF	)	
EVERETT, WASHINGTON, a	)	No. C91-215 WD
municipal corporation,	)	
Plaintiffs,	)	JOINT
v.	)	STIPULATIONS
	)	FOR PURPOSES OF
	)	DISPOSITIVE
UNITED STATES DEPARTMENT	)	MOTIONS
OF HOUSING AND URBAN	)	
DEVELOPMENT, et al.,	)	
Defendants.	)	
_____	)	
UNITED STATES OF AMERICA,	)	
Plaintiff,	)	NO. C91-1273WD
v.	)	
	)	
CITY OF EDMONDS,	)	
Defendant.	)	
_____	)	

1. Oxford House-Edmonds is an unincorporated association operating under a charter issued by Oxford House, Inc. and is comprised of the residents of a house at 8704 216th Street, S.W., Edmonds, Washington. Oxford House-Edmonds uses this house, pursuant to the charter issued to it by Oxford House, Inc., as a residence for approximately 10-12 recovering adult alcoholics and drug addicts.



2. Oxford House-Edmonds is democratically governed adhering to rules and approach developed by Oxford House, Inc. in the *Oxford House Manual*. These rules require any resident who uses alcohol or drugs to be expelled. The house is self-supporting. The residents maintain a house checking account to pay for common house expenses. Each resident is assessed an equal share of these expenses. Each week, a resident must pay into the house account his share of the expenses. Failure to pay one's share will lead to expulsion from the house. In exigent circumstances, the house may "carry," for one to two weeks, a resident who cannot pay his share.

3. The residents of Oxford House-Edmonds live together as a single housekeeping unit and interact with each other, providing the mutual emotional support that is fundamental to the Oxford House approach to addiction recovery.

4. The residents of Oxford House-Edmonds are recovering alcoholics and drug addicts and are handicapped persons within the meaning of 42 U.S.C. §§ 3602(h) and 3604(f).

5. Oxford House-Edmonds leases the house at 8704 216th Street, S.W., from Herb Hamilton of 902 12th Place North, Edmonds, Washington, 98020.

6. Oxford House-Edmonds is located within an area zoned RS (single-family residential) under the Edmonds Community Development Code ("ECDC") and is a dwelling within the meaning of 42 U.S.C. § 3602(b).

7. The City of Edmonds limits occupancy of residential structures in single-family zones to a "family"

consisting of any number of persons related by adoption, marriage or genetics, or five or fewer unrelated persons. The City of Edmonds contends that this is a density restriction.

8. Because its members are not a "family" within the meaning of the ECDC, use of the house at 8704 216th Street, S.W., Edmonds, Washington, by Oxford House-Edmonds as a residence for 10-12 unrelated individuals described in ¶ 4, *supra*, violates the ECDC and exposes Oxford House Edmonds, its members, and Herb Hamilton to criminal liability.

9. The experience of Oxford House, Inc. has shown that the Oxford House approach requires approximately 8 to 12 residents in order to function effectively in terms of financial self-sufficiency and the achievement of a supportive environment for recovery from alcoholism and drug abuse. Based upon that national experience, Oxford House-Edmonds cannot viably operate at its current location in the single-family zone in Edmonds, Washington, and at the same time comply with the limit of 5 or fewer unrelated persons.

10. The City of Edmonds, in July and August of 1990, issued criminal citations to Herb Hamilton and one resident of Oxford House-Edmonds for violation of the ECDC's prohibition described above.

11. The City of Edmonds, by and through its agents, has notified Oxford House-Edmonds that it intends to enforce the ECDC against Oxford House-Edmonds, but it has also agreed voluntarily to refrain from any enforcement action until the resolution of this litigation. Contacts between the City of Edmonds and the representatives and

residents of Oxford House-Edmonds were limited to the following:

a. Letter from Duane Bowman, Assistant Planner, to Mark Spence, representative of Oxford House, Inc., notifying Mr. Spence that Oxford House-Edmonds' occupancy of the house at 8704 - 216th St. S.W. by more than five unrelated adults violated the single-family zone density restriction and definition of family.

b. An inspection of the premises lasting about fifteen (15) minutes by John Bissell, Code Enforcement Officer, with the permission and attendance of Mr. Spence.

c. Filing of misdemeanor charges in Edmonds Municipal Court against Mr. Spence, Herb Hamilton and a John Doe, resident. Service of charges and notification of withdrawal of the charges was accomplished by mail.

All actions taken were within the scope of the official duties of the City administrators. There is no evidence of any intent to harass the residents of Oxford House-Edmonds, nor of any action, other than the limited contacts detailed above, which might constitute harassment.

Since initial complaints by neighborhood residents, contacts between neighborhood residents and City officials have been limited to inquiries regarding the progress of the lawsuit instituted by the City. No other complaints have been received regarding any specific activity at the residence since the initial complaints.

12. Prior to the adoption of a new zoning ordinance in 1964, the City utilized a definition of family which did

not distinguish between relatives and other individual residents. The definition read as follows:

**FAMILY:** One or more persons occupying a dwelling unit and living as a single, nonprofit housekeeping unit.

Ordinance No. 789, Exhibit A. On October 20, 1964, following extensive hearings before the City's planning commission, the Edmonds City Council adopted a new zoning Ordinance 1074. In the ordinance, "family" was defined:

**FAMILY:** One or more persons related by blood, marriage, adoption or a group of not more than six persons (excluding servants) not related by blood or marriage, living together as a single housekeeping unit in a dwelling unit.

Ordinance 1074, Exhibit B. The only guide to the City Council's legislative purpose are the legislative findings which form a preface to the ordinance. During the 1970s, the definition was modified, dropping references to servants and including references to wards of the court. Code section 12.12.070, Exhibit C. In 1980, the City adopted a new comprehensive zoning ordinance which adopted the current definition. While there were extensive public hearings and a consultant's report, the definition of "family" was not discussed. The only guide to the Edmonds City Council's intent are the generalized findings contained in Ordinance No. 1074 adopting the 1964 revision of the Code. (Ordinances and minutes are attached.)

13. On January 22, 1991, the Edmonds City Council passed Ordinance No. 2820 deleting a requirement that

group homes for the disabled obtain conditional use permits to locate in multi-family zones of the City and permitting as outright permitted uses group homes for the disabled in multi-family and general commercial zones. Exhibit D is a true and accurate copy of the ordinance.

14. The impacts on City services and infrastructures from the residents of Oxford House-Edmonds are not qualitatively or quantitatively different than the impacts which would be created by an equally numerous group of related persons of the same age at the same location. According to the 1990 census, the average household in Edmonds contains 2.41 persons and the average family contains 2.88 persons, a reduction from the 2.64 persons per household and 3.07 persons per family recorded in the 1980 census.

15. Attached as Exhibit E is a true and correct copy of the City of Edmonds Community Development Code.

16. Attached as Exhibit F is a true and accurate copy of the City of Edmonds Zoning Map.

DATED this 28th day of April, 1992.

RIDDELL, WILLIAMS, BULLITT &  
WALKINSHAW

By /s/ Robert I. Heller

\*Robert I. Heller  
WSBA No. 14375  
Scott Schrum  
WSBA No. 19726

Attorneys for Defendants Oxford  
House, Inc., Oxford House-Edmonds  
and Herb Hamilton

\*Counsel of record

OGDEN, MURPHY, WALLACE

By /s/ W. Scott Snyder

W. Scott Snyder  
WSBA No. 12835  
Philip C. Raymond  
WSBA No. 12998

Attorneys for City of Edmonds

UNITED STATES

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Paul F. Hancock  
Robert S. Berman  
Howard R. Griffin

Attorneys, Housing and Civil  
Enforcement Section, Civil Rights  
Division, U.S. Department of Justice

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The Honorable William L. Dwyer

UNITED STATES DISTRICT COURT IN AND FOR  
THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CITY OF EDMONDS, et al.,	)	NO. C91-215WD
Plaintiffs,	)	
vs.	)	AFFIDAVIT OF
	)	JEFFREY S. WILSON
WASHINGTON STATE	)	IN SUPPORT OF
BUILDING CODE COUNCIL,	)	MOTION FOR
et al.,	)	SUMMARY
	)	JUDGMENT
Defendants.	)	
<hr/>		
UNITED STATES OF	)	
AMERICA,	)	NO. C91-1273WD
Plaintiff,	)	
vs.	)	
CITY OF EDMONDS,	)	
Defendant.	)	
<hr/>		
STATE OF WASHINGTON	)	
	)	ss.
COUNTY OF KING	)	

COMES NOW Jeffrey S. Wilson and on his oath being duly sworn states and avers as follows:

1. I am currently employed as a [Current /s/ JSW] Planning Supervisor in the City of Edmonds and have served in that capacity for fourteen (14) months. [Prior to /s/ JSW] that time, I served as Planning Director for the City of Lake Stevens for fourteen (14) months. As part of

my employment with Lake Stevens, I worked for the City of Kirkland as a Planner for seven (7) years.

2. I have a Bachelors Degree from the University of Washington in urban planning, and graduated in 1982. I attended the University of Puget Sound Law School for one year. I am a member of the American Institute of Certified Planners.

3. The City of Edmonds [definition of family /s/ JSW] applies to all residential uses in the single family zone the occupancy limitation contained in ECDC 21.030.010. With the exception of uses designed to serve the single family use such as schools, churches and family daycare, all uses within a residential structure are limited in occupancy to a family as defined as no more than five (5) unrelated individuals.

4. Part of my duties include review of the City's current housing inventory. Based upon the database maintained by the Snohomish County Assessor, I have determined that there are two hundred fifty-eight (258) single family residences located in the City's multi-family zones. There are additional single family residences in the commercial zones of the City. These residences could be occupied by Oxford House as a matter of right.

5. During the fourteen (14) months that I have been employed by the City I have never observed nor have I been directed to take any action with respect to Oxford House. There is to my knowledge no administrative policy designed to harass, intimidate or otherwise interfere with the use of the property at 8704 - 216th Street S.W., Edmonds, Washington, by the resident recovering drug addicts and alcoholics. To my knowledge, neither I nor

any member of my department has had any contact with the residents of Oxford House, Edmonds, during the last fourteen (14) months.

6. Based on my training and experience, the definition of family employed by the City of Edmonds and its zoning code structure are typical of that found in communities throughout the state of Washington, and within limits of my experience, and other communities nationally.

Further affiant says not.

/s/ Jeffrey S. Wilson  
Jeffrey S. Wilson

SUBSCRIBED AND SWORN TO before me this 28th day of April, 1992.

/s/ Rhonda J. March  
NOTARY PUBLIC  
My Commission expires:  
June 16, 1993

[SEAL]

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CITY OF EDMONDS, )  
WASHINGTON, a municipal )  
corporation and CITY OF )  
EVERETT, WASHINGTON, a )  
municipal corporation, )  
Plaintiffs, )

UNITED STATES DEPARTMENT ) No. C91-215 WD  
OF HOUSING AND URBAN )  
DEVELOPMENT, et al., )  
Defendants. )

UNITED STATES OF AMERICA, )  
Plaintiff, )  
CITY OF EDMONDS, )  
Defendant. )

CERTIFICATION OF J. PAUL MOLLOY

1. I J. Paul Molloy am a member, in good standing, of the Bar of the District of Columbia and serve as the Chief Executive Officer of Oxford House, Inc. I am a recovering alcoholic and was co-founder of Oxford House in 1975.
2. In 1981, I was a member of the Special Committee of the D.C. Bar on Alcoholism and Drug Addiction within the Bar which led to the establishment of the D.C. Bar Lawyer's Counselling Committee in 1982. I was a member of that Committee for eight years and former Co-Chairperson. I have been a witness before Congressional

Committees and Federal agencies on Employee Assistance Programs in the railroad industry and alcoholism and drug addiction in general.

3. Oxford House, Inc. is a Delaware non-profit corporation, recognized by the Internal Revenue Service as qualifying under section 501 (c) (3) of the Internal Revenue Code, and serves as the umbrella organization for a national network of 375 individual Oxford Houses including eleven in the State of Washington.

4. Individual Oxford Houses are autonomous but have a Charter from Oxford House, Inc. which contains the following three requirements:

The house must be self-run on a democratic basis;

The house must be financially self-supporting; and

Any resident who drinks alcohol or uses drugs must be immediately expelled.

5. Each Oxford House is rented – neither Oxford House, Inc. nor individual Oxford Houses own property for fear that such ownership would detract from the emphasis on recovery. The rental of each house is undertaken by the local group of individuals who will live in the house. The method of rental is designed to assure that the group of recovering individuals accept responsibility for paying bills.

6. The first Oxford House was founded in Silver Spring, Maryland in 1975 when a county-run halfway house closed because of a lack of funds. I was a resident of this

facility. This news absolutely panicked the remaining residents of the halfway house. We complained about our fate at Alcoholics Anonymous meetings. We complained about heartless bureaucrats throwing us out onto the streets at a time when we were making sincere attempts to change our lives. Members of Alcoholics Anonymous suggested to us that instead of whining about what was happening to us that we rent the house ourselves. With a loan from an Alcoholics Anonymous member, thirteen men took over the halfway house – six, including me, had been residents of the halfway house; seven other recovering individuals were recruited to form the first group.

7. The first Oxford House differed from its halfway house origins in three significant respects:

1. it was self-run; the halfway house was run by county employees – a house manager, a part-time counsellor, a cook and a supervisor;

2. it was self-supported by each resident paying an equal share of expenses; the halfway house charged various amounts based on a percentage of a resident's income and was extensively subsidized with county and state funds, and

3. residents of Oxford House could live in the house for as long as they wanted as long as they did not drink alcohol or use drugs and paid their equal share of expense; the halfway house had a residency time limit of six months.

8. Within a few weeks of its establishment, the first Oxford House incorporated in the State of Maryland as a not-for-profit corporation. The corporation was re-incorporated in the State of Delaware in October 1987.



9. The first Oxford House accumulated enough pooled resources at the end of six months to rent a second house in Northwest Washington, D.C. (March 1976). The second house was given a Charter to be an equal member of the Oxford House corporation. (By-laws provided from the beginning of the corporation that each house would have one vote in matters affecting the corporation.) That house together with the first Oxford House accumulated enough pooled resources to open a third house after another four months (August 1976). The pattern of expansion to accommodate additional applicants for residency in an Oxford House continued until 13 houses were in operation by the end of 1977 – approximately two years after the first Oxford House had started.

10. The number of Oxford Houses over the next ten years varied from a high of 14 to a low of 8 in 1985. After 1985 the number of houses in the Oxford House network grew to 12 in 1987; 18 in 1988; 33 in 1989 and 375 at present. The major reason for the growth in the number of houses is (1) the great demand for such houses, (2) the knowledge that the model could be easily duplicated outside the Washington, D.C. area, (3) the decision by Oxford House to expand, and (4) federal legislation designed to encourage all states to establish Oxford Houses.

11. In 1988, Oxford House was approached by members of Congress, Representative Edward Madigan (R-Ill.) in particular, when Congress was considering passage of the Anti-Drug Abuse Act. Specifically, Rep. Madigan wanted to know how Oxford House felt about receiving federal grant money for the establishment of Oxford Houses nationally. I brought the proposal to the next Oxford

House board meeting. At that time, the Oxford House board was comprised of the president from each existing Oxford House. The Board vehemently opposed the idea. They felt that government money means government control; which in turn mean rules, regulations and bureaucrats. They strongly felt that the receipt of government money would be the end of the self-support and self-government concept of Oxford House.

12. The sentiments of the Oxford House board was relayed to Rep. Madigan. A compromise was reached wherein each state was required to establish a \$100,000 revolving loan fund to make loans to start "self-run, self-supported recovery houses throughout the country. (See attached remarks of Congressman Madigan).

13. On November 18, 1988, President Ronald Reagan signed into law the Drug Abuse Act of 1988, P.L. 100-690. § 2036 of that law mandates each State to establish and implement a revolving loan fund to foster the establishment of self-run, self-supported recovery houses throughout the country. Specifically the law establishes criteria which defines a self-run, self-supported recovery house based on the Oxford House concept, traditions, and system of operations, to which applicants must adhere to in order to qualify for the loan.

14. Once the new law was enacted, Oxford House, Inc. established a central office to assist the various federal and state agencies interested in implementing the law.

15. Oxford House, Inc. entered a contract with the State of Washington to assist in the administration of the loan fund and to provide outreach and technical assistance to establish Oxford Houses within the state.

16. Pursuant to the contract with the State of Washington, Oxford House - Edmonds was established by Mark Spence, an employee of Oxford House, Inc. The house was a recipient of a start up loan from the state revolving loan fund.

I hereby certify under penalty of perjury that the foregoing is true and correct.

/s/ J. Paul Molloy  
 J. Paul Molloy  
 Chief Executive Officer  
 Oxford House, Inc.  
 9312 Colesville Road  
 Silver Spring, MD 20901  
 301-587-2916

Honorable William L. Dwyer

UNITED STATES DISTRICT COURT  
 WESTERN DISTRICT OF WASHINGTON  
 AT SEATTLE

CITY OF EDMONDS, et al.,

Plaintiffs,

v.

WASHINGTON STATE BUILDING

CODE COUNCIL, et al.,

Defendants.

UNITED STATES OF AMERICA,

Plaintiff,

v.

CITY OF EDMONDS,

Defendant.

NO. C91-215WD

NO. C91-1273WD

DECLARATION OF MARTHA AYLAS DUSENBERRY

I, Martha Aylas Dusenberry, make this declaration pursuant to the provisions of 28 U.S.C. 1746.

1. I am a Mathematical Statistician in the Housing and Civil Enforcement Section of the Civil Rights Division, United States Department of Justice and have been employed by the Division since April 1985. I have degrees in Mathematics and Mathematical Statistics from The American University, Washington, D.C. As a part of my responsibilities I maintain, retrieve, and analyze

census data in connection with the Department's enforcement activities.

2. I was requested to ascertain the total number of housing units, vacant housing units, owner occupied housing units and renter occupied housing units in the City of Edmonds (Shohomish County), Washington from the 1990 Census. These data were compiled by the United States Bureau of the Census during the 1990 Census and are reported in the 1990 Census of Population and Housing Summary Tape File 1A [STF1A]. The STF1A files also contain these data for single- and multi-family units. On June 25, 1992, I contacted the Washington State Data Center (State of Washington, Forecasting Division, Office of Financial Management, Olympia, Washington 98504-3113) and obtained these data for the City of Edmonds. Attached to this declaration is Profile 8 Housing Unit Structural Characteristics obtained from Washington State Data Center.

3. The attached report [at Items H41/42/43] indicates the following information for the City of Edmonds:

Total housing units	12,945	
Owner occupied	8,459	(65.4 percent)
Renter occupied	4,169	(32.2 percent)
Vacant	317	( 2.5 percent)
Total single family housing units	8,550	
Renter occupied	967	(11.3 percent)
Vacant	148	( 1.7 percent)

In addition, the 1990 Census indicates the total population for the City of Edmonds was 30,744 persons.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 25th day of June 1992.

/s/ Martha Aylas Dusenberry  
MARTHA AYLAS DUSENBERRY

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'1990 CENSUS OF POPULATION AND HOUSING BY PLACE, SMOMOMISH COUNTY'  
 PROFILE 8 - HOUSING UNIT STRUCTURAL CHARACTERISTICS  
 PLACE: Edmonds city

07/05/91

STATE: WASHINGTON

COUNTY: 53861 PLACE: 8345 SUMLEVEL: 155

M29/43. LIMITS AND VALUE BY LIMITS IN STRUCTURE (UNIVERSE: OWNER-OCCUPIED HOUSING UNITS)				M30. VACANCY STATUS (UNIVERSE: VACANT HOUSING UNITS)	
	UNITS	AGGREGATE VALUE	AVERAGE VALUE		
SINGLE FAMILY	7,435	\$1,401,452,000	\$188,494	SPECIFIED VACANT FOR RENT	132
1, DETACHED	7,322	\$1,387,367,000	\$189,479	SPECIFIED VACANT FOR SALE ONLY	47
1, ATTACHED	113	\$14,035,000	\$124,646	ALL OTHER VACANTS	138
MULTI FAMILY	884	\$116,149,000	\$131,390	M38. RENT ASKED	
2	58	\$10,755,000	\$185,431	(UNIVERSE: SPECIFIED VACANT - FOR - RENT HOUSING UNITS)	
3 OR MORE	826	\$105,394,000	\$127,596	AGGREGATE RENT ASKED	\$74,302
MOBILE HOME OR				AVERAGE RENT ASKED	\$563
TRAILER	88	\$1,257,500	\$14,290		
OTHER	52	\$8,527,500	\$163,990	M31. PRICE ASKED	
				(UNIVERSE: SPECIFIED VACANT - FOR - SALE HOUSING UNITS)	
TOTAL	8,459	\$1,527,386,000	\$180,563	AGGREGATE PRICE ASKED	\$9,117,500
				AVERAGE PRICE ASKED	\$193,989

## M41/42/43 UNITS IN STRUCTURE (UNIVERSE: HOUSING UNITS)

	TOTAL		VACANT		OCCUPIED		OWNER OCCUPIED		RENTER OCCUPIED	
	UNITS	PCT	UNITS	PCT	UNITS	PCT	UNITS	PCT	UNITS	PCT
SINGLE FAMILY	8,550	66.0%	148	66.7%	8,402	66.5%	7,435	87.9%	967	23.2%
1, DETACHED	8,352	66.5	142	44.8	8,210	65.0	7,322	86.6	888	21.3
1, ATTACHED	198	1.5	6	1.9	192	1.5	113	1.3	79	1.9
MULTI FAMILY	4,165	32.2	162	51.1	4,003	31.7	884	10.5	3,119	74.8
2	265	2.0	14	4.4	251	2.0	58	0.7	193	4.6
3 OR 4	615	4.8	30	9.5	585	4.6	128	1.5	457	11.0
5 TO 9	674	5.2	30	9.5	644	5.1	151	1.8	493	11.8
10 TO 19	1,122	8.7	38	12.0	1,084	8.6	367	4.1	737	17.7
20 TO 49	1,385	10.7	43	13.6	1,342	10.6	198	2.3	1,144	27.4
50 OR MORE	104	0.8	7	2.2	97	0.8	2	0.0	95	2.3
MOBILE HOME OR TRAILER	125	1.0	2	0.6	123	1.0	88	1.0	35	0.8
OTHER	105	0.8	5	1.6	100	0.8	52	0.6	48	1.2
TOTAL	12,945	100.0%	317	100.0%	12,628	100.0%	8,459	100.0%	4,169	100.0%

M43/44. AGGREGATE AND AVERAGE NUMBER OF PERSONS BY TENURE BY UNITS IN STRUCTURE  
(UNIVERSE: PERSONS IN OCCUPIED HOUSING UNITS)

	OCCUPIED HOUSING UNITS:		OWNER OCCUPIED HOUSING UNITS:		RENTER OCCUPIED HOUSING UNITS:	
	AGGREGATE PERSONS	AVERAGE PERSONS	AGGREGATE PERSONS	AVERAGE PERSONS	AGGREGATE PERSONS	AVERAGE PERSONS
SINGLE FAMILY	22,796	2.71	20,027	2.69	2,769	2.86
1, DETACHED	22,372	2.72	19,770	2.70	2,602	2.93
1, ATTACHED	424	2.21	257	2.27	167	2.11
MULTI FAMILY	7,239	1.81	1,474	1.67	5,765	1.85
2	573	2.28	145	2.50	428	2.22
3 OR 4	1,146	1.96	233	1.82	913	2.00
5 TO 9	1,123	1.74	239	1.58	884	1.79
10 TO 19	1,929	1.78	554	1.60	1,375	1.87
20 TO 49	2,338	1.74	301	1.52	2,037	1.78
50 OR MORE	130	1.34	2	1.00	128	1.35
MOBILE HOME OR TRAILER	231	1.88	160	1.82	71	2.03
OTHER	181	1.81	99	1.90	82	1.71
TOTAL	30,447	2.41	21,760	2.57	8,687	2.08

100TH CONGRESS  
2d Session

REPORT  
100-711

HOUSE OF REPRESENTATIVES  
FAIR HOUSING AMENDMENTS ACT OF 1988

JUNE 17, 1988. - Committed to the Committee  
of the Whole House on the State of the Union and  
ordered to be printed

MR. EDWARDS of California, from the Committee  
on the Judiciary, submitted the following

REPORT

together with

ADDITIONAL AND DISSENTING VIEWS

[To accompany H.R. 1158]

[Including cost estimate of the  
Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 1158) to amend title VIII of the Act commonly called the Civil Rights Act of 1968, to revise the procedures for the enforcement of fair housing, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:



## SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Housing Amendments Act of 1988".

## SEC. 2. SHORT TITLE FOR 1968 ACT.

The Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended by inserting after the comma at the end of the enacting clause, the following: "That this Act may be cited as the 'Civil Rights Act of 1968'."

## SEC. 3. REFERENCES TO 1968 ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or provision, the reference shall be considered to be made to a section or other provision of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968).

\* \* \*

## SEC. 9. CONFORMING AMENDMENT TO TITLE IX.

Section 901 is amended by inserting ", handicap (as such term is defined in section 802 of this Act), familial status (as such term is defined in section 802 of this Act)," after "sex" each place it appears.

## SEC. 10. TECHNICAL AMENDMENT RELATING TO CIVIL ACTION.

Section 818 (as so redesignated by section 8 of this Act) is amended by striking out the last sentence thereof.

## SEC. 11. CONFORMING AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) JURISDICTION. - Section 2342 of title 28, United States Code, is amended -

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting "; and" in lieu thereof; and

(3) by inserting after paragraph (5) but before the matter beginning "Jurisdiction is invoked" the following:

"(6) all final orders of an administrative law judge under section 812 of the Fair Housing Act."

(b) DEFINITION. - Section 2341(3) of title 28, United States Code, is amended -

(1) by striking out "and" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting "; and" in lieu thereof; and

(3) by adding at the end the following:

"(D) the administrative law judge, when the order is under section 812 of the Fair Housing Act."

## SEC. 12. DISCLAIMER OF PREEMPTIVE EFFECT ON OTHER ACTS.

Nothing in the Fair Housing Act as amended by this Act limits any right, procedure, or remedy available under the Constitution or any other Act of the Congress not so amended.

### SEC. 13. EFFECTIVE DATE AND INITIAL RULEMAKING.

(a) **EFFECTIVE DATE.** – This Act and the amendments made by this Act shall take effect on the 180th day beginning after the date of the enactment of this Act.

(b) **INITIAL RULEMAKING.** – In consultation with other appropriate Federal agencies, the Secretary shall, not later than the 180th day after the date of the enactment of this Act, issue rules to implement title VIII as amended by this Act. The Secretary shall give public notice and opportunity for comment with respect to such rules.

### SEC. 14. SEPARABILITY OF PROVISIONS.

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

### EXPLANATION OF THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The amendment in the nature of a substitute adopted by the Committee differs from the introduced bill primarily in the following respects: clarifies that the handicap provisions do not require that a dwelling be provided to any person whose tenancy poses a direct threat to the health or safety of others; excludes current illegal users or addicts of controlled substances from protection as handicapped persons; allows persons with handicaps to make reasonable modifications, at their expense, to existing premises to afford them full enjoyment of the premises; requires new multifamily dwelling of 4 or more units to

be designed and constructed to allow access and use by handicapped persons; clarifies that the prohibition of discrimination against families with children does not apply to housing for older persons; clarifies that appraisers may consider relevant and nondiscriminatory factors; removes reference to hazard, mortgage and title insurance; eliminates the requirement that the Department of Housing and Urban Development (HUD) provide financial assistance to public and private agencies, and to assist the poor; allows HUD to seek prompt judicial action with notice to the Attorney General; allows states and localities 40 months to retain "substantially equivalent" status and allows HUD to grant an additional 8 months in extraordinary circumstances; places Administrative Law Judges (ALJs) in the Department of Justice; creates deadlines for action by HUD and ALJs of 100 days for investigations and reasonable cause determinations, 120 days for hearings to commence after a charge has been issued, and 60 days for the ALJ to make findings of fact and conclusions of law; requires HUD to report annually the number of incidents in which the time lines were not met; requires that the Federal Rules of Evidence govern the presentation of evidence; allows ALJs to award actual damages, equitable relief, and to impose maximum civil penalties of \$10,000, 25,000 and 50,000; eliminates the ability of ALJs to award punitive damages; brings attorney's fee language in title VIII closer to the model used in other civil rights laws.

### PURPOSE OF THE BILL AS AMENDED BY THE COMMITTEE

The purposes of H.R. 1158, as amended, are threefold. One is to fulfill the promise made to the American

people 20 years ago by the enactment of title VIII of the Civil Rights Act of 1968. That law proscribes housing practices that discriminate on account of race, color, national origin or religion,<sup>1</sup> but it fails to provide an effective enforcement system to make that promise a reality. This bill seeks to fill that void by creating an administrative enforcement system, which is subject to judicial review, and by removing barriers to the use of court enforcement by private litigants and the Department of Justice. Second, H.R. 1158 extends the principle of equal housing opportunity to handicapped persons. Third, the bill extends protections to families with children. Both handicapped persons and families with children, like the other classes protected by title VIII, have been the victims of unfair and discriminatory housing practices.

#### AMENDMENTS ADOPTED BY THE COMMITTEE

Clarifies language on new construction, families with children exemption, injunctive relief, removes reference to hazard insurance.

Clarifies that the handicap provisions of the bill do not require a dwelling to be made available to an individual whose tenancy would constitute a direct threat to the health or safety of others.

Excludes current illegal uses and addicts of controlled substances from the definition of handicapped persons.

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<sup>1</sup> And, as amended in 1974, on account of sex. Public Law 93-383.

Moves Administrative Law Judges from the Department of Housing and Urban Development to the Department of Justice.

Allows appraisers to take into consideration relevant and non-discriminatory factors when making appraisals.

Increases time from 30 to 40 months for substantially equivalent agencies to retain status. Allows Secretary discretion to extend period to 48 months in exceptional circumstances.

Clarifies rights of parties in administrative proceedings.

\* \* \*

Secretary has no place else to go. In those few cases where good will is absent, the exclusive reliance upon voluntary resolution is, in the words of former Secretary Carla Hills, and 'invitation to intransigence.'

Reform of the Fair Housing Act is a necessity that is acknowledged by all.<sup>21</sup>

The debate, then, is not whether to improve existing law, but rather, how to improve it.

#### ADMINISTRATIVE ENFORCEMENT

H.R. 1158 creates an administrative enforcement mechanism, so the federal government can and will take an active role in enforcing the law. HUD will continue to investigate complaints and will conciliate the conflict

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<sup>21</sup> Message from President Reagan transmitting the Proposed Fair Housing Amendments Act of 1983, July 12, 1983.



between the parties, who can also agree to arbitration. If conciliation fails and HUD determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, then HUD can bring the case to a hearing before an Administrative Law Judge. Because HUD can continue to enforce the law if the conciliation is unsuccessful, there is a real incentive for both parties to conciliate and resolve the complaint in the early stages.

Administrative proceedings have been used for many years in other federal agencies<sup>22</sup> and are economical and efficient. Many states now use administrative proceedings to adjudicate housing discrimination complaints.<sup>23</sup> Continuing current law, states and localities with "substantially equivalent" fair housing laws will still be able to handle cases in their own administrative proceedings.

The bill strengthens the private enforcement section by expanding the statute of limitations, removing the limitation on punitive damages, and brings attorney's fee language in title VIII closer to the model used in other civil rights laws. The bill allows the Attorney General to intervene in private cases of general public importance, continues the Justice Department's pattern or practice jurisdiction, and, at the suggestion of the Administration,

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<sup>22</sup> Over 29 agencies regularly use administrative law judges.

<sup>23</sup> At least 32 of 36 state agencies, and most local agencies, certified by HUD as substantially equivalent under existing law use administrative hearings to adjudicate fair housing complaints. Most of these agencies hold hearings before a fair housing board, civil rights commission, or similar body.

allows the Justice Department to seek substantial civil monetary penalties against violators.

#### COVERAGE OF HANDICAPPED PERSONS

H.R. 1158 includes handicapped persons as a protected class. Handicapped persons have been protected from some forms of discrimination since Congress enacted the Rehabilitation Act of 1973,<sup>24</sup> and the bill uses the same definitions and concepts from that well-established law. In the 1980 Fair Housing bill, Congress also included protections for individuals with handicaps.

Prohibiting discrimination against individuals with handicaps is a major step in changing the stereotypes that have served to exclude them from American life. These persons have been denied housing because of misperceptions, ignorance, and outright prejudice.

The Fair Housing Amendment Act, like Section 504 of the Rehabilitation Act of 1973, as amended,<sup>25</sup> is a clear pronouncement of a national commitment to end the unnecessary exclusion of persons with handicaps from the American mainstream. It repudiates the use of stereotypes and ignorance, and mandates that persons with handicaps be considered as individuals. Generalized perceptions about disabilities and unfounded speculations about threats to safety are specifically rejected as grounds to justify exclusion.

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<sup>24</sup> U.S.C. 701 et seq.

<sup>25</sup> 29 U.S.C. 794.

For example, people who use wheelchairs have been denied the right to build simple ramps to provide access, or have been perceived as posing some threat to property maintenance.<sup>26</sup> People with visual and hearing impairments have been perceived as dangers because of erroneous beliefs about their abilities. People with mental retardation have been excluded because of stereotypes about their capacity to live safely and independently.<sup>27</sup> People with Acquired Immune Deficiency Syndrome (AIDS) and people who test positive for the AIDS virus have been evicted because of an erroneous belief that they pose a health risk to others.<sup>28</sup>

All of these groups have experienced discrimination because of prejudice and aversion – because they make non-handicapped people uncomfortable. H.R. 1158 clearly prohibits the use of stereotypes and prejudice to deny critically needed housing to handicapped persons. The right to be free from housing discrimination is essential to the goal of independent living.

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<sup>26</sup> See, e.g., testimony of Sharon Mistler, 1986 Subcommittee hearings at 244, testimony of David Capozzi at 253.

<sup>27</sup> In *City of Cleburne v. Cleburne Living Center*, 473 U.S. 435 (1985), the Supreme Court held that there is no rational basis to exclude citizens with mental retardation from living in the community. In that case, the city's zoning board ruled that residents with mental retardation posed a variety of dangers which precluded them from safely living in a home in the community. The Court examined each alleged danger, and concluded that each was based on a stereotype, and not on actual fact.

<sup>28</sup> See, e.g., New York City Commission on Human Rights, Report on Discrimination Against People with AIDS, August 1987.

Because persons with mobility impairments need to be able to get into and around a dwelling unit (or else they are in effect excluded because of their handicap), the bill requires that in the future covered multifamily dwellings be accessible and adaptable. This means that the doors and hallways must be wide enough to accommodate wheelchairs, switches and other controls must be in convenient locations, most rooms and spaces must be on an accessible route, and disabled persons should be able to easily make additional accommodations if needed, such as installing grab bars in the bathroom, without major renovation or structural change.

These modest requirements will be incorporated into the design of new buildings, resulting in features which do not look unusual and will not add significant additional costs. The bill does not require the installation of elevators or "hospital-like" features, or the renovation of existing units.

#### COVERAGE OF FAMILIES WITH CHILDREN

H.R. 1158 also prohibits discrimination based on familial status (having children who are under 18). In many parts of the country families with children are refused housing despite their ability to pay for it. Although 16 states have recognized this problem and have proscribed this type of discrimination to a certain extent, many of these state laws are not effective.

Both the Congress and the courts have a long tradition of defining and protecting families as "perhaps the



most fundamental social institution of our society."<sup>29</sup> The Congress has consistently stressed the importance of the family in numerous social welfare programs intended to support children and their parents.<sup>30</sup> In 1949, the federal government made a commitment to "provide a decent home and suitable living environment for every American family."<sup>31</sup> Nearly 40 years after this commitment, however, discrimination against families with children prevents millions of American families from realizing this goal.

In the latest national survey of discrimination based on familial status, HUD found that 25 percent of all rental units did not allow children; 50 percent were subject to restrictive policies that limited the ability of families to live in those units; and almost 20 percent of families were living in homes they considered less desirable because of restrictive practices.<sup>32</sup>

In another survey HUD found that 99 percent of respondents reported numerous problems related to housing discrimination against children. Of these respondents, 55 percent had searched for housing for over 9

<sup>29</sup> *Trimble v. Gordon*, 430 U.S. 763 (1977).

<sup>30</sup> See, e.g., Aid to Families with Dependent Children, 42 U.S.C. 601; Adoption Assistance and Child Welfare Act, 42 U.S.C. 670 et seq.

<sup>31</sup> 42 U.S.C. 1441.

<sup>32</sup> Marans, "Measuring Restrictive Rental Practices Affecting Families with Children: A National Survey," Office of Policy Planning and Research, Department of Housing and Urban Development, 1980.

weeks; 47 percent reported living in substandard conditions; 22 percent had been forced to move; 39 percent lived in overcrowded conditions; and 19 percent said that family members had to live apart during the past year.<sup>33</sup>

Sixteen states have some law prohibiting discrimination against families,<sup>34</sup> but these laws vary tremendously. Some states exempt all-adult (over 18 years old) housing communities,<sup>35</sup> and others allow families to be segregated within a complex.<sup>36</sup> and others exempt retirement communities with low entrance ages.<sup>37</sup> Nine states cover only rental and not sale housing.<sup>38</sup> Illinois and New Jersey protect only children under 14. New Jersey limits relief to no more than \$200 for the first offense and \$500 for each subsequent offense. Arizona relies on a criminal sanction for enforcement.

Even in states with laws, discrimination against families continues. In 1982 and 1983 the California Supreme Court found that the state anti-discrimination law protected families with children in both rental housing and

<sup>33</sup> Greene, "How Restrictive Rental Practices Affect Families With Children" Office of Policy Planning and Research, Department of Housing and Urban Development, 1980.

<sup>34</sup> Arizona, California, Connecticut, Delaware, Illinois, Maine, Massachusetts, Michigan, Minnesota, Montana, New Hampshire, New Jersey, New York, Rhode Island, Vermont, Virginia.

<sup>35</sup> e.g. Arizona, Rhode Island, Virginia.

<sup>36</sup> e.g. Maine, Massachusetts, Minnesota.

<sup>37</sup> e.g. New Hampshire (45), Michigan (50).

<sup>38</sup> Arizona, Connecticut, Delaware, Illinois, Maine, New Jersey, New York, Rhode Island, Vermont.



condominiums.<sup>39</sup> In 1984 the state legislature codified and clarified these decisions.<sup>40</sup> But even after enactment, discrimination against children continued in California. In 1983, a year after the court decision, a study of apartment complexes in Sacramento found that 40 percent engaged in differential and discriminatory treatment towards families.<sup>41</sup> And in 1984, a survey in 11 major California cities found that 39 percent of landlords excluded or imposed restrictions on children.<sup>42</sup>

Connecticut enacted its anti-discrimination law in 1981, but 5 years later, following state-wide hearings, the state concluded that "families with children are overtly and illegally discriminated against."<sup>43</sup> The Director of the

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<sup>39</sup> *Marina Point Ltd. v. Wolfson*, 30 Cal.3d 721, 180 Cal. Rptr. 496, 640 P.2d 115 (1982) (rental housing). *O'Connor v. Village Green Owners Association*, 33 Cal.3d 790, 191 Cal.Rptr. 320, 662 P.2d 427 (1983) (condominiums).

Before the court made these decisions, a 1979 study found that staggering numbers of rental units, 71 percent in Los Angeles, 70 percent in San Jose, 65 percent in San Diego, 53 percent in Fresno, did not rent to families with children in California. Ashford, "The Extent and Effects of Discrimination Against Children in Rental Housing: A Study of Five California Cities," December 1979.

<sup>40</sup> California Civil Code §§ 51.2 and 51.3. This prohibits discrimination against families in virtually all housing

<sup>41</sup> Human Rights/Fair Housing Commission of the City and County of Sacramento, "Discrimination Against Families With Children in the Sacramento Rental Market: Audit and Assessment," March 1983.

<sup>42</sup> "Anti-children Bias Illegal But Common in L.A. Apartment," Los Angeles Times, part II, p. 1 (March 4, 1985)

<sup>43</sup> Connecticut Commission on Human Right and Opportunities, "Housing Discrimination and Opportunities in the State of Connecticut" at 18, April 1986.

Illinois Department of Human Rights said that the majority of fair housing complaints in the state are based on exclusion of children.<sup>44</sup>

A 1986 study detailed the problem in New Jersey, which had prohibited discrimination against children in 1898. In Middlesex County, 75 percent of 1200 families seeking assistance in locating rental housing reported discrimination against them because of their children. The Monmouth County Board of Social Services Housing Unit estimated a 50 percent rate of discrimination against families they assisted. The New Jersey Tenants Organization, with 80,000 member households, reported at least 25 percent of households with children have had a problem with discrimination.<sup>45</sup>

In states without laws prohibiting discrimination, the situation is equally serious. In Des Moines, Iowa, a survey found that 48 percent of the landlords did not permit children and only a few of the landlords rented to families without any restrictions.<sup>46</sup> In Dallas, Texas, studies showed that 52 percent of the units within the central city prohibit children and an additional 12 percent have restrictions as to the number and age of children.<sup>47</sup> In the

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<sup>44</sup> 1987 Subcommittee hearings at 655.

<sup>45</sup> "Adults Only, Discrimination Against Children in Rental Housing, Housing Coalition of Middlesex County, 1986.

<sup>46</sup> Burke, "A Report on Discrimination against Children in Des Moines Rental Housing," prepared for the Des Moines Community Housing Resource Board, September 1985.

<sup>47</sup> Greene, "An evaluation of the Exclusion of Children from Apartments in Dallas Texas," J.G. & Associates, Inc. 1978.

Dallas suburb of Irving, only 13 of 40 apartment complexes built between 1983-85 accept families with children.<sup>48</sup> In Alexandria, Virginia, only 9 of the rental units accept families without restriction.<sup>49</sup>

Discrimination against families often has a racially discriminatory effect, because minority households are more likely to have children.<sup>50</sup> For example, in California, 69 percent of Hispanic families and 62 percent of black families have children, compared with 51 percent of white families.<sup>51</sup> Because minority households tend to be larger and exclusion of children often has a racially discriminatory effect, two federal courts of appeal have held that adults-only housing may state a claim of racial discrimination under title VIII.<sup>52</sup>

In addition, because predominantly white neighborhoods are more likely to have restrictive policies, racial segregation is exacerbated by the exclusion of children. For example, the national survey by HUD found that units in predominantly white neighborhoods restricted children at a rate of 28.9 percent compared with 17.5

<sup>48</sup> "Apartment Hunting Complex with Kids," Irving Daily News, at 1 (October 25, 1985).

<sup>49</sup> "Landlords 'No Children' Policies Frustrate Parents Seeking Housing", Wall Street Journal, section 2, p. 35 (October 16, 1985).

<sup>50</sup> See testimony of James Morales, 1987 Subcommittee hearings at 390.

<sup>51</sup> U.S. Department of Commerce, Bureau of the Census, "General Population Characteristics," part 6-Cal. 52(1981).

<sup>52</sup> *Betsey v. Turtle Creek Associates*, 736 F.2d 983 (4th Cir. 1984); *Halet v. Wend Investment Co.*, 672 F.2d 1305 (9th Cir. 1982).

percent in predominantly black neighborhoods, and also found that restrictions are greater in recently built units.<sup>53</sup>

The bill specifically exempts housing for older persons. The Committee recognizes that some older Americans have chosen to live together with fellow senior citizens in retirement-type communities. The Committee appreciates the interest and expectation these individuals have in living in environments tailored to their specific needs.

#### SECTION-BY-SECTION ANALYSIS

##### SHORT TITLES AND REFERENCES

*Section 1* provides that the short title of this Act will be the Fair Housing Amendments Act of 1988.

*Section 2* provides that the short title of the 1968 Act (which is being amended) will be the Civil Rights Act of 1968. This simply establishes in the law itself the short title which is often used when referring to the 1968 Act.

*Section 3* states that all references in the bill are to the 1968 Civil Rights Act unless otherwise specified.

*Section 4* provides that the short title of title VIII of the 1968 Act shall be the Fair Housing Act. Again, this simply establishes in the law the title normally used when referring to title VIII.

<sup>53</sup> Marans, fn. 32, *supra*, at 34, 44.



## AMENDMENTS TO DEFINITIONS

*Section 5(a)* broadens the definition of discriminatory housing practice to include prohibitions against coercion, intimidation, threats or interference under Section 817.

*Section 5(b)* amends the definition section. Adds new definitions of handicap, aggrieved person, complainant, familiar status, conciliation, conciliation agreement, respondent, and prevailing party.

*Handicap.* Provides a definition of handicap to be used under this Act. This language is substantially similar to the definition under the primary federal law prohibiting discrimination against the handicapped, the Rehabilitation Act of 1973.<sup>54</sup> The Committee intends that the definition be interpreted consistent with regulations clarifying the meaning of the similar provision found in Section 504 of the Rehabilitation Act.<sup>55</sup>

<sup>54</sup> Definitions at 29 U.S.C. 706.

<sup>55</sup> See, e.g., 45 CFR § 84.3; 45 CFR part 84, App. A., subpart A. As the regulations note, the definition of handicap does not include a list of specific diseases and conditions that constitute physical or mental impairments because of the difficulty of ensuring the comprehensiveness of any such list and because some conditions covered under the definition of handicap may not even been discovered or prevalent in the population at the time of passage of legislation. For example, AIDS and infection with the Human Immunodeficiency Virus (HIV) are covered under this Act, although such conditions were not even discovered when Section 504 was passed in 1973. See, e.g., *Local 1812, American Federation of Government Employees v. U.S. Department of State*, 662 F.Supp. 50, 54 (D.D.C. 1987), *Ray v. School District of DeSoto County*, 666 F.Supp. 1524 (M.D. Fla. 1987).

The definition adopted by the Committee makes it clear that current illegal users of or addicts to controlled substances, as defined by the Controlled Substances Act,<sup>56</sup> are not considered to be handicapped persons under the Fair Housing Act. This amendment is intended to exclude current abusers and current addicts of illegal drugs from protection under this Act. The definition of handicap is not intended to be used to condone or protect illegal activity.

This exclusion does not eliminate protection for individuals who take drugs defined in the Controlled Substances Act for a medical condition under the care of, or by prescription from, a physician. Use of a medically prescribed drug clearly does not constitute illegal use of a controlled substance.

Similarly, individuals who have a record of drug use or addiction but who do not currently use illegal drugs would continue to be protected if they fell under the definition of handicap. The Committee does not intend to exclude individuals who have recovered from an addiction or are participating in a treatment program or a self-help group such as Narcotics Anonymous. Just like any other person with a disability, such as cancer or tuberculosis, former drug-dependent persons do not pose a threat to a dwelling or its inhabitants simply on the basis of status. Depriving such individuals of housing, or evicting them, would constitute irrational discrimination that may seriously jeopardize their continued recovery.

<sup>56</sup> 21 U.S.C. 802.



Individuals who have been perceived as being a drug user or an addict are covered under the definition of handicap if they can demonstrate that they are being regarded as having an impairment and that they are not currently using an illegal drug.

The exception for current illegal drug users does not affect their coverage in the Rehabilitation Act or other statutes. The World Health Organization and the American Psychiatric Association both classify substance abuse and drug dependence as a mental disorder, and most medical authorities agree that drug dependence is a disease.<sup>57</sup> Indeed, Congress has defined the term "handicap" in the Rehabilitation Act to include drug addiction and to require that federal employers as well as recipients of federal financial assistance recognize drug addiction as a handicap.<sup>58</sup>

*Aggrieved person.* Provides a definition of aggrieved person to be used under this act. In *Gladstone Realtors v. Village of Bellwood*,<sup>59</sup> the Supreme Court affirmed that standing requirements for judicial and administrative review are identical under the VIII. In *Havens Realty Corp.*

<sup>57</sup> American Psychiatric Association, "Diagnostic and Statistical Manual of Mental Disorders," 3rd ed, 1980, pp. 163-179; World Health Organization, "International Classification of Diseases," 9th Rev., Clinical Modifications (ICD-9-CM) (1978), items 304 and 305; American Medical Association, Resolution 113 (1987), reprinted in U.S. Journal of Drug and Alcohol Dependence (July 1987).

<sup>58</sup> See, e.g., 43 Op. Att'y. Gen. (1977), *School Board of Nassau County v. Arline*, 107 S.Ct. 1123, 1130, n. 14 (1987).

<sup>59</sup> 441 U.S. 91 (1979).

*v. Coleman*,<sup>60</sup> the Court held that "testers" have standing to sue under title VIII, because Section 804(d) prohibits the representation "to any person because of race, color, religion, sex or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available."<sup>61</sup> The bill adopts as its definition language similar to that contained in Section 810 of existing law, as modified to reaffirm the broad holdings of these cases.

*Familial status.* The Committee intends to cover by this definition a parent or other person having legal custody, or that individual's designee, domiciled with a child or children under age 18. The Committee does not intend this definition to include marital status.

*Prevailing party.* Provides a definition of prevailing party to be used under this Act. This term makes clear that the same definition of prevailing party as used in the Civil Rights Attorney's Fees Act<sup>62</sup> is to be used in this Act.

#### ADDITIONAL DISCRIMINATORY HOUSING PRACTICES

*Section 6(a)* amends the list of discriminatory housing practices to prohibit discrimination on the basis of handicap. New subsection 804(f)(1) would make it unlawful to discriminate or to otherwise make unavailable or deny a dwelling to any buyer or renter because of a handicap of

<sup>60</sup> 455 U.S. 363 (1982).

<sup>61</sup> 455 U.S. 363, 373, emphasis original.

<sup>62</sup> 42 U.S.C. 1988.

that individual, someone associated with that individual, or of a resident or potential resident.

New subsection 804(f)(2) would similarly prohibit discrimination against the same persons in the terms, conditions, privileges, or provision of services or facilities. This provision is intended to prohibit special restrictive covenants or other terms or conditions, or denials of service because of an individual's handicap and which have the effect of excluding, for example, congregate living arrangements for persons with handicaps. It would guarantee, for example, that an individual could not be discriminatorily barred from access to recreation facilities, parking privileges, cleaning and janitorial services and other facilities, uses of premises, benefits and privileges made available to other tenants, residents, and owners. To the extent that terms, conditions, privileges, services or facilities operate to discriminate against a person because of a handicap, elimination of the discrimination would be required in order to comply with the requirements of this subsection.

The Committee intends these provisions to prohibit not only discrimination against the primary purchaser or named leasee, but also to prohibit denials of housing opportunities to applicants because they have children, parents, friends, spouses, roommates, patients, subtenants or other associates who have disabilities.

These new subsections would also apply to state or local land use and health and safety laws, regulations, practices or decisions which discriminate against individuals with handicaps. While state and local governments

have authority to protect safety and health, and to regulate use of land, that authority has sometimes been used to restrict the ability of individuals with handicaps to live in communities.<sup>63</sup> This has been accomplished by such means as the enactment or imposition of health, safety or land-use requirements on congregate living arrangements among non-related persons with disabilities. Since these requirements are not imposed on families and groups of similar size of other unrelated people, these requirements have the effect of discriminating against persons with disabilities.

The Committee intends that the prohibition against discrimination against those with handicaps apply to zoning decisions and practices. The Act is intended to prohibit the application of special requirements through land-use regulations, restrictive covenants, and conditional or special use permits that have the effect of limiting the ability of such individuals to live in the residence of their choice in the community. Under H.R. 1158, land use and zoning cases are to be litigated in court by the Department of Justice. They would not go through the administrative process.

Another method of making housing unavailable to people with disabilities has been the application or enforcement of otherwise neutral rules and regulations

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<sup>63</sup> See e.g., *City of Cleburne v. Cleburne Living Center*, 473 U.S. 435 (1985).

on health, safety and land-use in a manner which discriminates against people with disabilities.<sup>64</sup> Such discrimination often results from false or over-protective assumptions about the needs of handicapped people, as well as unfounded fears of difficulties about the problems that their tenancies may pose. These and similar practices would be prohibited.

New subsection 804(f)(3) sets out specific requirements to augment the general prohibitions under (f)(1) and (2). These include provisions regarding reasonable modifications to existing premises, "reasonable accommodation" and accessibility features in new multifamily housing construction.

New Subsection 804(f)(3)(A) makes it illegal to refuse to permit tenants with disabilities to make reasonable modifications, at his or her own expense, of existing premises if the modification is necessary for those persons' full enjoyment of the premises. During the hearing process, the Committee learned of instances in which landlords have refused to let tenants with handicaps make minor changes to their apartments, such as the installation of a lever door knob for a person with an artificial hand, or the installation of grab bars in bathrooms, even if the tenant was willing to pay for the

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<sup>64</sup> Id.

modification.<sup>65</sup> A landlord's refusal to allow such modifications operates, at worst, to deny housing to handicapped persons, and, at least, to deny them the opportunity to enjoy their premises safely and fully.

The Committee understands that the nature of individual handicaps, and therefore the potential need for environmental modifications, varies greatly. Therefore the term "full enjoyment" has been used here to assure that reasonable modifications required by individual tenants to assure that he or she could fully use the premises would be protected under this Act. For example, persons who have a hearing disability could install a flashing light in order to "see" that someone is ringing the doorbell. Elderly individuals with severe arthritis may need to replace the doorknobs with lever handles. A person in a wheelchair may need to install fold-back hinges in order to be able to go through a door or may need to build a ramp to enter the unit. Any modifications protected under this section must be reasonable and must be made at the expense of the individual with handicaps.

New Subsection 804(f)(3)(B) makes it illegal to refuse to make reasonable accommodation in rules, policies, practices, or services if necessary to permit a person with handicaps equal opportunity to use and enjoy a dwelling. The concept of "reasonable accommodation" has a long history in regulations and case law dealing with discrimination on the basis of handicap.<sup>66</sup> A discriminatory rule, policy, practice or service is not

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<sup>65</sup> See e.g., Testimony of Bonnie Milstein, 1986 Subcommittee hearings at 102.

<sup>66</sup> See, *Southeastern Community College v. Davis*, 442 U.S. 397 (1979); 45 CFR § 84.12.



defensible simply because that is the manner in which such rule or practice has traditionally been constituted. This section would require that changes be made to such traditional rules or practices if necessary to permit a person with handicaps an equal opportunity to use and enjoy a dwelling.

New Subsection 804(f)(3)(C) places modest accessibility requirements on "covered multifamily dwellings" designed and built for first occupancy 30 months after enactment. Covered multifamily dwellings are defined in Subsection 804(f)(5) to mean buildings of 4 or more units with elevators, or ground floor units in other, non-elevator buildings. The Committee does not intend this bill to require the installation of elevators.

The Committee understand that housing discrimination against handicapped persons is not limited to blatant, intentional acts of discrimination. Acts that have the effect of causing discrimination can be just as devastating as intentional discrimination. A person using a wheelchair is just as effectively excluded from the opportunity to live in a particular dwelling by the lack of access into a unit and by too narrow doorways as by a posted sign saying "No Handicapped People Allowed." In *Alexander v. Choate*,<sup>67</sup> the Supreme Court observed that discrimination on the basis of handicap is "most often the product, not of invidious animus, but rather of thoughtlessness and indifference - of benign neglect" and mentioned

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<sup>67</sup> 469 U.S. 287 (1985).

"architectural barriers" as one factor that can have a discriminatory effect.<sup>68</sup>

Accessibility requirements can vary across a wide range. A standard of total accessibility would require that every entrance, doorway, bathroom, parking space, and portion of buildings and grounds be accessible. Many designers and builders have interpreted the term "accessible" to mean this type of standard. The Committee does not intend to impose such a standard. Rather, the Committee intends to use a standard of "adaptable" design, a standard developed in recent years by the building industry and by advocates for handicapped individuals to provide usable housing for handicapped persons without necessarily being significantly different from conventional housing.<sup>69</sup> This subsection sets forth certain features of adaptive design to be incorporated in new multifamily housing construction.

The first requirement is that the public and common use portions of such dwellings be readily accessible to and usable by handicapped persons. This means that hallways, lounges, lobbies, passageways among and between buildings and other common areas and facilities not contain barriers to entrance and use by handicapped persons. This requires that one regular entrance to such areas be accessible to handicapped persons for the same purpose for which it is used by others. It does not require that all entrances be made accessible to handicapped

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<sup>68</sup> 469 U.S. 297.

<sup>69</sup> See Barrier Free Environments, Inc., "Adaptable Housing," Office of Policy Development and Research, Department of Housing and Urban Development, 1988, at 7.

persons.<sup>70</sup> It also does not require that amenities, such as laundry rooms or public bathrooms, be installed. The intent of the language is that only if such amenities are provided, then they must be readily accessible to and usable by handicapped persons.

The second requirement is that passage doorways into and within all units be sufficiently wide to allow passage by handicapped persons in wheelchairs. This requirement is not intended to apply to doorways not designed to allow passage, such as into a linen closet, but would apply to a walk-in closet, since such a doorway is designed to allow passage. These slightly wider doors are not uncommon, and as they become increasingly uniform within the housing industry, the price can reasonably be expected to decrease as well.

The third requirement is that all premises contain four specified features of adaptive design. This requirement was refined during consideration by the Committee, to provide additional specificity for planners and builders, and was drafted in consultation with the American Institute of Architects and the National Association of Home Builders.

The first adaptable design feature is an accessible route. This means that persons in wheelchairs be able to

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<sup>70</sup> The Committee understands that "readily accessible to and usable by" are terms of art used in other Federal statutes and regulations. See, e.g., Architectural Barriers Act of 1968, 42 U.S.C. 4151, et seq., and regulations under Section 504 of the Rehabilitation Act of 1973, 45 CFR §§ 84.1-15. The Committee intends that such term in this Act have the same meaning as in the others.

have physical access into and throughout the unit equal to persons not in wheelchairs. The second feature is that light switches, electrical outlets, thermostats and other environmental controls be provided in accessible locations, neither too high nor too low. This provision is not intended to increase the risk of danger to others or necessarily to require waist high controls.

The third feature is reinforcements in bathroom walls to allow the later installation of grab bars around the toilet, tub, shower stall and shower seat. This does not require that grab bars be installed in a new construction, but rather that reinforcements be installed to allow the easy later installation of grab bars at a tenant's option and expense. When reinforcements are installed as a part of new construction, there is no aesthetic change to the bathroom and it is of minimal expense. Having to add reinforcements later, however, can be a major structural undertaking with associated expense.

The fourth feature is that kitchens and bathrooms be usable such that an individual in a wheelchair can maneuver about the space. This provision is carefully worded to provide a living environment usable by all. Design of standard sized kitchens and bathrooms can be done in such a way as to assure usability by persons with disabilities without necessarily increasing the size of the space.<sup>71</sup> The Committee intends that such space be usable by handicapped persons, but this does not necessarily

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<sup>71</sup> See e.g., Barrier Free Environments, Inc., "Adaptable Housing," Office of Policy Development and Research, Department of Housing and Urban Development, 1988.



require that a turning radius be provided in every situation. This provision also does not require that fixtures, cabinetry or plumbing be of such design as to be adjustable.

New Subsection 804(f)(4) was adopted during Committee consideration to assure designers of new multifamily housing that if they follow the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people, commonly cited as ANSI A117.1, then they will have met the adaptive design requirements. However, this section is not intended to require that designers follow this standard exclusively, for there may be other local or state standards with which compliance is required or there may be other creative methods of meeting these standards. But if designers do follow this standard, then they have satisfied the Act's requirements of adaptive design.

The Committee is sensitive to the possibility that certain natural terrain may pose unique building problems. For example, in areas which flood frequently, such as waterfronts or marshlands, housing may traditionally be built on stilts. The Committee does not intend to require that the accessibility requirements of this Act override the need to protect the physical integrity of multifamily housing that may be built on such sites.

The Committee believes that these provisions carefully facilitate the ability of tenants with handicaps to enjoy full use of their homes without imposing unreasonable requirements on homebuilders, landlords and non-handicapped tenants. The Committee believes that these basic features of adaptability are essential for equal

access and to avoid future de facto exclusion of persons with handicaps, as well as being easy to incorporate in housing design and construction. Compliance with these minimal standards will eliminate many of the barriers which discriminate against persons with disabilities in their attempts to obtain equal housing opportunities.

New Section 804(f)(6) ensures that State and local laws and regulations which impose stricter accessibility requirements than does this Act shall remain in force. Many States have enacted accessibility and equal opportunity requirements for persons with disabilities. It is the intent of the Committee that the Act simply establishes minimum standards for equal opportunity, and does not supplant or replace State or local laws which impose higher standards.

New Section 804(f)(7) was adopted during Committee consideration of the bill and states that it shall not be discrimination on the basis of handicap to deny a dwelling to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals. This provision was passed by the Committee as a substitute to an amendment which would have excluded from the definition of "handicap" under the Act "any current impairment that consists of alcoholism, drug abuse, or any infectious, contagious or communicable disease whether or not such disease causes a physical or mental impairment during the period of contagion, or any other impairment which would be a direct threat to the property, health or safety of others."



The Committee rejected the approach of excluding a category of individuals with disabilities from the protection of the Act. Instead, the Committee affirmed that all individuals with handicaps, with the exception of current illegal abusers or addicts of controlled substances, have access to the housing protections established by this Act. While the Committee does not foresee that the tenancy of any individual with handicaps would pose any risk, much less a significant risk, to the health or safety of others by the status of being handicapped, the Committee added this provision to allay the fears of those who believe that the non-discrimination provisions of this Act could force landlords and owners to rent or sell to individuals whose tenancies could pose such a risk.<sup>72</sup>

In adopting this amendment, the Committee drew on case law developed under Section 504 of the Rehabilitation Act of 1973. Section 504, which governs programs and activities receiving federal financial assistance, provides that no "otherwise qualified handicapped individual" may be subjected to discrimination solely on the basis of his or her handicap. Handicapped individuals are "otherwise qualified" if, with reasonable accommodation, they can satisfy all the requirements for a position or

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<sup>72</sup> Following adoption of the substitute amendment, another amendment was offered that would have excluded from the definition of handicap "any current impairment that consists of an infectious, contagious or communicable disease whether or not such disease causes a physical or mental impairment during the period of contagion." The debate on this amendment primarily centered around people infected with HIV (the AIDS virus). The amendment was defeated.

services.<sup>73</sup> An individual is not otherwise qualified if, for example, he or she would pose a threat to the safety of others, unless such threat can be eliminated by reasonable accommodation.<sup>74</sup>

The formulation of this amendment parallels the provision added to the Civil Rights Restoration Act of 1988<sup>75</sup> with regard to individuals with contagious diseases and infections<sup>76</sup> – a provision Congress added in order to codify the recent Supreme Court decision in *School Board of Nassau County v. Arline*.<sup>77</sup> In *Arline*, the Court held that "[a] person who poses a significant risk of communicating an infectious disease to others in the workplace will

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<sup>73</sup> See *Southeastern Community College v. Davis*, 442 U.S. 397, 406 (1979); *Pushkin v. Regents of University of Colorado*, 658 F.2d 1372, 1385-1387 (10th Cir. 1981).

<sup>74</sup> See *School Board of Nassau County v. Arline*, 107 S.Ct. 1123, 1130-1131 (1987); *Strathie v. Department of Transportation*, 716 F.2d 227, 232-234 (3rd Cir. 1983).

The concept of reasonable accommodation is well established in regulations and case law. See fn. 66, *supra*. In regulations recently issued by the Department of Housing and Urban Development, the agency noted that the reasonable accommodation requirement applies to ensure usability of housing for tenants with disabilities 24 CFR § 8.24(b), 53 Fed. Reg. at 20239 (June 2, 1988). Although the Committee believes it extremely unlikely that the tenancy of an individual with handicaps would ever pose a direct threat to others, such that the reasonable accommodation requirement would be necessary to eliminate the threat, the requirement exists for those situations in which it might be necessary.

<sup>75</sup> Public Law 100-259, 102 Stat. 28 (March 22, 1988).

<sup>76</sup> See Section 9 of Public Law 100-259 amending Section 7(8) of the Rehabilitation Act of 1973, 29 U.S.C. 706.

<sup>77</sup> 107 S.Ct. 1123 (1987).

not be otherwise qualified for his or her job if reasonable accommodation will not eliminate that risk."<sup>78</sup>

While *Arline* dealt with employment in the context of Section 504, the Committee intends that same standard to apply in the context of housing under this Act. Thus, the direct threat requirement incorporates the *Arline* standard, and a dwelling need not be made available to an individual whose tenancy can be shown to constitute a direct threat and a significant risk of harm to the health or safety of others. If a reasonable accommodation could eliminate the risk, entities covered under this Act are required to engage in such accommodation pursuant to Section 6(f)(3) of the Act.

The provision adopted by the Committee specifically refers to a direct threat posed by an individual's tenancy. The purpose of this formulation is to require that the landlord or property owner establish that there is a nexus between the fact of the individual's tenancy and the asserted direct threat. Thus, under this provision, a court would need to evaluate whether a direct threat and a significant risk of harm existed in the context of the individual's tenancy.

Any claim that an individual's tenancy poses a direct threat and a substantial risk of harm must be established on the basis of a history of overt acts or current conduct.

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<sup>78</sup> 107 S.Ct. at 1131, n. 16. While the amendment in the Civil Rights Restoration Act amended the definition of "individual with handicaps" in order to parallel a 1978 amendment added with regard to coverage of alcohol and drug users, Congress made clear that its purpose in adding the amendment was to codify the entire "otherwise qualified" standard of *Arline*.

Generalized assumption, subjective fears, and speculation are insufficient to prove the requisite direct threat to others.<sup>79</sup> In the case of a person with a mental illness, for example, there must be objective evidence from the person's prior behavior that the person has committed overt acts which caused harm or which directly threatened harm.

In practical terms, a landlord may not, for example, refuse to rent to an individual solely because the applicant uses a wheelchair, is mentally retarded or has a vision or hearing impairment. Similarly, if the landlord determines that the applicant has a history of a physical or mental illness, that fact alone is insufficient for the landlord to use in determining whether or not to rent to that individual. The landlord may ask the applicant for references to determine the applicant's eligibility for tenancy, as he does for other applicants. If the landlord determines, by objective evidence that is sufficiently recent as to be credible, and not from unsubstantiated inferences, that the applicant will pose a direct threat to the health or safety of others, the landlord may reject the applicant as a tenant. In assessing information, the landlord may not infer that a recent history of a physical or mental illness or disability, or treatment for such illnesses or disabilities, constitutes proof that an applicant will be unable to fulfill his or her tenancy obligations.

This provision is not intended to give landlords and owners the right to ask prospective tenants and buyers

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<sup>79</sup> See *Arline*, 107 S.Ct. at 1130-1131; *Chalk v. U.S. District Court*, 840 F.2d 701 (9th Cir. 1988); *New York State Association for Retarded Children v. Carey*, 612 F.2d 644, 649-650 (2nd Cir. 1979).



blanket questions about the individuals' disabilities. Under Section 504 of the Rehabilitation Act, employers may not inquire, as part of pre-employment inquiries, whether an applicant is a handicapped person or as to the nature or severity of the handicap. Employers may only make pre-employment inquiries into an applicant's ability to perform job-related functions.<sup>80</sup> Similarly, under this provision, only an inquiry into a prospective tenant's ability to meet tenancy requirements would be justified. Thus, in assessing an application for tenancy, a landlord or owner may ask an individual the questions that he or she asks of all other applicants that relate directly to the tenancy (e.g., questions relating to rental history or a targeted inquiry as to whether the individual has engaged in acts that would pose a direct threat to the health or safety of other tenants), but may not ask blanket questions with regard to whether the individual has a disability. Nor may the landlord or owner ask the applicant or tenant questions which would require the applicant or tenant to waive his right to confidentiality concerning his medical condition or history. The only exception is that a landlord or owner may ask whether the individual is a current illegal abuser or addict of controlled substances.

*Section 6(b)* amends existing Section 806 and 804(c)-(e) to prohibit discrimination on the basis of handicap and amends existing section 806 and 804(a)-(e) to prohibit discrimination on the basis of familial status.

<sup>80</sup> See 45 CFR § 84.14 (1977).

*Section 6(c)* amends Section 805 to prohibit discrimination in residential real estate-related transactions. It defines residential real estate-related transaction to include making or purchasing of real estate related loans, or the selling, brokering, or appraising of residential real property.

Under amended Section 805, the provisions of the Act extend to the secondary mortgage market. The Committee does not intend that those purchasing mortgage loans be precluded from taking into consideration factors justified by business necessity (including requirements of Federal law) which relate to the financial security of the transaction or the protection against default or diminution in value of the security.

The provision prohibiting discrimination against families under Section 805(a), which deals with discrimination in the terms or conditions of financing, is not intended to restrict or prohibit the legitimate consideration of actual obligations incurred in caring for children (such as on-going day care expenses and child support obligations), just as the lender considers other obligations incurred by other persons, when evaluating the ability of a person to qualify for a mortgage.

This section also clarifies that appraisers may take into consideration relevant and nondiscriminatory factors when making appraisals. Thus, it is intended that the appraisal process not operate to discriminate on the basis of race, color, religion, national origin, sex, handicap or familial status.

*Section 6(d)* amends Section 807 to make additional exemptions relating to the familial status provisions.



These provisions are not intended to limit the applicability of any reasonable local, State, or Federal restrictions on the maximum number of occupants permitted to occupy a dwelling unit. A number of jurisdictions limit the number of occupants per unit based on a minimum number of square feet in the unit or the sleeping areas of the unit. Reasonable limitations by governments would be allowed to continue, as long as they were applied to all occupants, and did not operate to discriminate on the basis of race, color, religion, sex, national origin, handicap or familial status.

This section exempts from the familial status provisions any State or Federal program aimed at assisting the elderly.<sup>81</sup> It also exempts housing for older persons.

The Committee intends that the housing for older persons exemption be limited to communities consisting of dwellings intended for older persons. Housing for older persons is defined in a two pronged test; in order to meet the definition, at least one prong must be satisfied.

The first prong has two parts; both must be fulfilled. First, 90 percent of the units must be occupied by at least one person 55 or older. The Committee recognizes that persons over 55 may have spouses, dependents or other individuals under 55 who live with them and provide emotional and economic support. Such persons would still be allowed to live in the unit without jeopardizing the exemption for the community, as long as at least 90 percent of the units are occupied by at least one person 55

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<sup>81</sup> See, e.g., Section 202 of the Housing Act of 1959, 12 U.S.C. 1701q.

or older. This requirement is not intended to substitute an average age of 55 for the community. The Committee also recognizes that there may be rare instances in which only persons under 55 may reside in a unit in the community, such as a nurse providing care for a resident. Thus, the Committee does not require all units to be occupied by at least one person over 55, only that most units, 90 percent, be occupied by such older persons.

The second part of the first prong requires significant facilities and services specifically designed to meet the physical or social needs of the older residents. As the President's Commission on Housing recently stated, "the frailties of old age need not result in institutionalization if accessible housing and adequate services are available."<sup>82</sup> Earlier, the President's Task Force on Aging noted "the period of independence of older persons maybe extended and the quality of their lives enhanced through provision of limited supportive services in apartments and villages designed especially for their use."<sup>83</sup>

Such facilities and services include congregate dining facilities, social and recreational programs, emergency and preventive health care or programs, continuing education, welfare, information and counseling, recreational, homemaker, outside maintenance and referral services, transportation to facilities access to social services, and

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<sup>82</sup> Report of the President's Commission on Housing, 1982, at 49.

<sup>83</sup> Report of the President's Task Force on Aging: Toward A Brighter Future for the Elderly, 1971, at 38.

services designed to encourage and assist recipients to use the services and facilities available to them.<sup>84</sup>

In order to meet the specific physical needs of older persons, the community should be designed to meet the functional and safety needs of aging persons over time. While residents may be of generally good health when they enter a development, they are likely to experience a diminution of physical capacity as the years pass. This requires an environment which can accommodate the changing needs of such residents, and would typically include hand rails along steps and interior hallways to reduce the risk of falls, grab bars in bathrooms, routes that allow use of wheelchairs, canes and walkers, lever type doorknobs and single lever faucets.

The Committee does not intend that this listing of facilities and services be exclusive, or that a community is required to have all of the listed items. Rather, the list is to serve as an example for such communities. The Committee understands that most existing age-restricted retirement-type communities provide such facilities and services, and would meet the test for exemption. The Committee does not intend for this part to be met by the provision of minor amenities, such as putting a couch in a laundry room and labeling it a recreation center, or installing a ramp at the front entrance.

The second prong has a simple test: the community must be intended for and occupied solely by persons 62

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<sup>84</sup> See also, Section 202(f) of the Housing Act of 1959, 12 U.S.C. 1701q, listing examples of facilities and services for elderly persons.

years of age or older. The Committee intends that all persons, without exception, permanently living in the community, be over 62. The Committee does not intend to exclude temporary visitors, such as children, grandchildren or other visitors under 62, or necessary resident employees such as medical staff or maintenance personnel.

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### *Oxford House Manual*

An Idea Based On a Sound System  
For Recovering Alcoholics to Help Themselves

---

**HOUSING,  
FELLOWSHIP,  
SELF-RELIANCE  
SELF-RESPECT,  
FOR RECOVERING INDIVIDUALS**

---

*Oxford House, Inc.*, is a non-profit corporation which will provide Charters, at a nominal charge, to recovering alcoholics who want to provide group housing for themselves.

\* \* \*

The size, location and cost of a suitable house to begin an Oxford House depends more on what is available than any specific criteria. The charter members who are looking for a suitable house should make certain that any prospective house can be occupied without violating local zoning or health and safety laws. This does not mean that an Oxford House should not be considered simply as residential property. In practice Oxford House is no different from an ordinary family - except no one in an Oxford House drinks alcohol or takes mood changing drugs.

\* \* \*

vacancy. Members listen to each member who has met or talked to the applicant. A vote should be taken on each applicant. If the applicant is rejected he or she should be told right after the meeting. If the applicant is accepted, and space is available, he or she should be informed as to

when to move in and given a copy of the manual so as to understand how Oxford House works. If the applicant is accepted, but no space is immediately available, he or she should be put on a waiting list and told his or her prospects of getting in. Whenever a waiting list gets long, a house should consider the feasibility of starting another house. Each new member should be told that the application he or she completed constitutes agreement to follow the rules of the House.

Meetings also include the wide range of decisions facing an Oxford House from purchases of wastebaskets to plans for opening a new House. The House meeting is the place to resolve any conflicts which arise from living together as a group. It is also a good place to pass on information about new AA meetings or up-coming AA related events. Staying sober and enjoying life is at the heart of Oxford House living.

### **Money**

Oxford House is built on the principle of self-help. When it comes to money matters, this simply means that any House must operate from its rent receipts. There may be exceptions when a House is first getting started. After a few weeks or months, a new Oxford House should be able to pay all of its operating expenses out of its rental income.

Some expenses associated with an Oxford House are not controllable after a commitment has been made to begin a House. For example, the monthly rental payment will be a fixed amount. In addition, utilities (electric, gas or oil, basic telephone and often water) will for the most



part be fixed expenses. One area where expenses are controllable involves the purchase of food and supplies. All expenses, whether fixed or controllable, must be carefully watched so that any member at any time can know the exact financial condition of the House. Particular attention must be paid to the telephone expenses. Each member should pay for his or her own long distance calls. Usually the Comptroller is responsible to see that the members pay their share of the telephone bill promptly so that the House is not faced with an unwanted and unwarranted expense.

The President, the Treasurer, and Comptroller all have a responsibility for making certain that accurate records are maintained showing expenses and income of the House. Every Oxford House should have its own checking account and make certain to run all income and outgo through the checking account as the main control point for keeping track of money flow. The very first thing a new Oxford House does is to establish a checking account. At least three officers of the House should be authorized to sign checks with two signatures required on each check in order for it to be valid. Any local bank will

\* \* \*

- alcohol or drug use
  - as soon as use is suspected call a special meeting
  - when a majority confirms use expulsion results
  - if drunk or high, member should leave immediately

- if passive, leave the next morning
- make no exceptions
- establish a readmission guideline of thirty days sobriety
- accept the fact that the House welfare is more important than any individual
- accept the fact that "tough love" stops relapses

## OFFICERS

- House President
  - elected for six month term
  - must be resident of House
  - calls and leads weekly and special meetings
  - cannot succeed himself but can be elected to the same office after six months have elapsed
- House Treasurer
  - elected for six month term
  - must be resident of House
  - responsible for maintaining House financial records
  - keeps membership informed about financial condition
  - cannot succeed himself but can be elected to the same office after six months have elapsed

- House Secretary
  - elected for six month term
  - must be resident of House
  - responsible for recording minutes of House meetings
  - keeps pending applications for new memberships
  - sends thank you notes to contributors
  - cannot succeed himself but can be elected to the same office after six months have elapsed
- House Comptroller
  - elected for six month term
  - must be resident of House
  - collects rent
  - deals with day to day expenses
  - responsible to Treasurer
  - balances books with Treasurer prior to each meeting
  - cannot succeed himself but can be elected to same office after six months have elapsed

## COMMUNITY RELATIONS

- Alcoholics Anonymous
  - individual members should attend may AA meetings

- Oxford House is not affiliated with AA but members of the House know that only active participation in AA offers assurance of continued sobriety
- let AA members know about Oxford House and how it is doing
- Neighbors
  - be a good neighbor
  - keep the outside of the House looking good
  - be considerate of where members park cars
  - get to know neighbors and be friendly
  - write thank you notes to those who give furniture and other things to the House

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*This Oxford System Checklist is simply a guideline used by one of the existing Houses. Your House may have better ideas and shorter or longer checklist. Use whatever helps to keep your Oxford House running smoothly so that all members have comfortable and long term sobriety.*

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**§ 300x-4a. Group homes for recovering substance abusers**

**(a) Establishment of revolving fund to defray costs of establishing programs**

For fiscal year 1989, the Secretary may not make payments under section 300x-2 of this title unless the State involved agrees -

(1) to establish, directly or through the provision of a grant or contract to a nonprofit private entity, a revolving fund to make loans for the costs of establishing programs for the provision of housing in which individuals recovering from alcohol or drug abuse may reside in groups of not less than 4 individuals;

(2) to ensure that the programs are carried out in accordance with guidelines issued under subsection (c) of this section;

(3) to ensure that not less than \$100,000 will be available for the revolving fund;

(4) to ensure that each loan made from the revolving fund does not exceed \$4000 and that each such loan is repaid to the revolving fund not later than 2 years after the date on which the loan is made;

(5) to ensure that each such loan is repaid through monthly installments and that a reasonable penalty is assessed for each failure to pay such periodic installments by the date specified in the loan agreement involved; and

(6) to ensure that such loans are made only to nonprofit private entities agreeing that, in the operation of the program established pursuant to the loan -

(A) the use of alcohol or any illegal drug in the housing provided by the program will be prohibited;

(B) any resident of the housing who violates such prohibition will be expelled from the housing;

(C) the costs of the housing, including fees for rent and utilities, will be paid by the residents of the housing; and

(D) the residents of the housing will, through a majority vote of the residents, otherwise establish policies governing residence in the housing, including the manner in which applications for residence in the housing are approved.

**(b) Assurances of program establishment**

For fiscal year 1990 and subsequent fiscal years, the Secretary may not make payments under section 300x-2 of this title unless the State involved provides assurances satisfactory to the Secretary that the State has provided for the establishment and ongoing operation of a revolving fund in accordance with subsection (a) of this section.

**(c) Program guidelines**

Not later than 90 days after November 18, 1988, the Secretary, acting through the Administrator, shall issue guidelines for the operation of programs described in subsection (a) of this section.

**(d) Territories**

The requirements established in subsections (a) and (b) of this section shall not apply to any territory of the



United States other than the Commonwealth of Puerto Rico.

(July 1, 1944, c. 373, Title XIX, § 1916A, as added Nov. 18, 1988, Pub.L. 100-690, Title II, § 2036, 102 Stat. 4202, and amended Aug. 16, 1989, Pub.L. 101-93, § 2(m)(1), 103 Stat. 608; Aug. 16, 1989, Pub.L. 101-93, § 2(m)(2), 103 Stat. 608.)

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**UNIFORM  
HOUSING  
CODE™**

1988 Edition

(SEAL)

FEB 16 1989

*First Printing*

Publication date: May 1, 1988

ISSN 0501-1213

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by

International Conference of Building Officials  
5360 South Workman Mill Road • Whittier, California  
90601

Printed In The U.S.A.

***Preface***

Cities, counties and other political subdivisions are vitally interested in urban renewal, the removal of blighted structures and the conservation of repairable structures. This development, together with the necessity for cities to comply with the Workable Program requirements of the Department of Housing and Urban Development (HUD), influenced the International Conference of Building Officials to prepare a Uniform Housing Code.™ This code is designed to fill one of the primary needs for urban renewal including conservation, rehabilitation or redevelopment programs, throughout the country.

In the preparation of the Housing Code the Conference, with the assistance of representatives of the Housing and Home Finance Agency (now HUD) and the members of the committee, have developed a code which meets the requirements for effective control of housing conditions.

Because of the wide use which this Housing Code will have, and because of the different state and local laws, we suggest that in enacting this code into law consideration be given to formulating local rules and regulations to correlate the Housing Code with local zoning and subdivision regulations and for abatement procedures. The Uniform Code for the Abatement of Dangerous Buildings contains reasonable procedures for the classification and abatement of dangerous buildings of all occupancies and is compatible with this code, which is applicable only to dwellings.

Reference is made in this code to certain requirements in the Uniform Building Code, in order to eliminate duplication and the possibility of conflict.

Vertical lines in margins indicate a change in the requirements from the 1985 edition. An analysis of changes between editions is published in pamphlet form by the Conference.

Deletion indicators (➤) are provided in the margin where a paragraph or item listing has been deleted if the deletion resulted in a change in requirements.

\* \* \*

## Chapter 5

### SPACE AND OCCUPANCY STANDARDS

#### Location on Property

**Sec. 501.** All buildings shall be located with respect to property lines and to other buildings on the same property as required by Section 504 and Part IV of the Building Code.

#### Yards and Courts

**Sec. 502. (a) Scope.** This section shall apply to yards and courts having required windows openings therein.

(b) **Yards.** Every yard shall be not less than 3 feet in width for one-story and two-story buildings. For buildings more than two stories in height the minimum width of the yard shall be increased at the rate of 1 foot for each additional story. Where yards completely surround the building, the required width may be reduced by 1 foot. For buildings exceeding 14 stories in height, the required width of yard shall be computed on the basis of 14 stories.

(c) **Courts.** Every court shall be not less than 3 feet in width. Courts having windows opening on opposite sides shall be not less than 6 feet in width. Courts bounded on three or more sides by the walls of the building shall be not less than 10 feet in length unless bounded on one end by a public way or yard. For buildings more than two stories in height the court shall be increased 1 foot in width and 2 feet in length for each additional story. For buildings exceeding 14 stories in

height, the required dimensions shall be computed on the basis of 14 stories.

Adequate access shall be provided to the bottom of all courts for cleaning purposes. Every court more than two stories in height shall be provided with a horizontal air intake at the bottom not less than 10 square feet in area and leading to the exterior of the building unless abutting a yard or public way. The construction of the air intake shall be as required for the court walls of the building, but in no case shall be less than one-hour fire-resistive.

#### Room Dimensions

**Sec. 503. (a) Ceiling Heights.** Habitable space shall have a ceiling height of not less than 7 feet 6 inches except as otherwise permitted in this section. Kitchens, halls, bathrooms and toilet compartments may have a ceiling height of not less than 7 feet measured to the lowest projection from the ceiling. Where exposed beam ceiling members are spaced at less than 48 inches on center, ceiling height shall be measured to the bottom of these members. Where exposed beam ceiling members are spaced at 48 inches or more on center, ceiling height shall be measured to the bottom of the deck supported by these members, provided that the bottom of the members is not less than 7 feet above the floor.

If any room in a building has a sloping ceiling, the prescribed ceiling height for the room is required in only one-half the area thereof. No portion of the room measuring less than 5 feet from the finished floor to the finished

ceiling shall be included in any computation of the minimum area thereof.

If any room has a furred ceiling, the prescribed ceiling height is required in two-thirds the area thereof, but in no case shall the height of the furred ceiling be less than 7 feet.

(b) **Floor Area.** Every dwelling unit shall have at least one room which shall have not less than 120 square feet of floor area. Other habitable rooms, except kitchens, shall have an area of not less than 70 square feet. Where more than two persons occupy a room used for sleeping purposes, the required floor area shall be increased at the rate of 50 square feet for each occupant in excess of two.

**EXCEPTION:** Nothing in this section shall prohibit the use of an efficiency living unit within an apartment house meeting the following requirements:

1. The unit shall have a living room of not less than 220 square feet of superficial floor area. An additional 100 square feet of superficial floor area shall be provided for each occupant of such unit excess of two.
2. The unit shall be provided with a separate closet.
3. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches in front. Light and ventilation conforming to this code shall be provided.



4. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

(c) **Width.** No habitable room other than a kitchen shall be less than 7 feet in any dimension.

Each water closet stool shall be located in a clear space not less than 30 inches in width and a clear space in front of the water closet stool of not less than 24 inches shall be provided.

#### **Light and Ventilation**

**Sec. 504. (a) Natural Light and Ventilation.** All guest rooms, dormitories and habitable rooms within a dwelling unit shall be provided with natural light by means of exterior glazed openings with an area not less than one tenth of the floor area of such rooms with a minimum of 10 square feet. All bathrooms, water closet compartments, laundry rooms and similar rooms shall be provided with natural ventilation by means of openable exterior openings with an area not less than one-twentieth of the floor area of such rooms with a minimum of  $1\frac{1}{2}$  square feet.

All guest rooms, dormitories and habitable rooms within a dwelling unit shall be provided with natural ventilation by means of openable exterior openings with an area of not less than one-twentieth of the floor area of such rooms with a minimum of 5 square feet.

(b) **Origin of Light and Ventilation.** Required exterior openings for natural light and ventilation shall

open directly onto a street or public alley or a yard or court located on the same lot as the building.

**EXCEPTION:** Required windows may open into a roofed porch where the porch:

1. Abuts a street, yard, or court; and
2. Has a ceiling height of not less than 7 feet; and
3. Has the longer side at least 65 percent open and unobstructed.

A required window in a service room may open into a vent shaft which is open and unobstructed to the sky and not less than 4 feet in least dimension. No vent shaft shall extend through more than two stories.

For the purpose of determining light and ventilation requirements, any room may be considered as a portion of an adjoining room when one half of the area of the common wall is open and unobstructed and provides an opening of not less than one tenth of the floor area of the interior room or 25 square feet, whichever is greater.

(c) **Mechanical Ventilation.** In lieu of required exterior openings for natural ventilation, a mechanical ventilation system may be provided. Such system shall be capable of providing two air changes per hour in all guest rooms, dormitories, habitable rooms and in public corridors. One fifth of the air supply shall be taken from the outside. In bathrooms containing a bathtub or shower or combination thereof, laundry rooms, and similar rooms, a mechanical ventilation system connected directly to the outside capable of providing five air changes per hour shall be provided. The point of discharge of exhaust air

shall be at least 5 feet from any mechanical ventilating intake. Bathrooms which contain only a water closet or lavatory or combination thereof, and similar rooms may be ventilated with an approved mechanical recirculating fan or similar device designed to remove odors from the air.

(d) **Hallways.** All public hallways, stairs and other exitways shall be adequately lighted at all times in accordance with Section 3312(a) of the Building Code.

### Sanitation

**Sec. 505. (a) Dwelling Units and Lodging Houses.** Every dwelling unit and every lodging house shall be provided with a bathroom equipped with facilities consisting of a water closet, lavatory, and either a bathtub or shower.

(b) **Hotels.** Where private water closets, lavatories and baths are not provided, there shall be provided on each floor for each sex at least one water closet and lavatory and one bath accessible from a public hallway. Additional water closets, lavatories and baths shall be provided on each floor for each sex at the rate of one for every additional ten guests, or fractional number thereof in excess of ten. Such facilities shall be clearly marked for "Men" or "Women."

(c) **Kitchen.** Each dwelling unit shall be provided with a kitchen. Every kitchen shall be provided with a kitchen sink. Wooden sinks or sinks of similarly absorbent material shall not be permitted.

(d) **Fixtures.** All plumbing fixtures shall be connected to a sanitary sewer or to an approved private sewage disposal system. All plumbing fixtures shall be connected to an approved system of water supply and provided with hot and cold running water necessary for its normal operation.

All plumbing fixtures shall be of an approved glazed earthenware type or of a similarly nonabsorbent material.

(e) **Water Closet Compartments.** Walls and floors of water closet compartments, except in dwellings, shall be finished in accordance with Section 511 of the Building Code.

(f) **Room Separations.** Every water closet, bathtub or shower required by this code shall be installed in a room which will afford privacy to the occupant. A room in which a water closet is located shall be separated from food preparation or storage rooms by a tight-fitting door.

(g) **Installation and Maintenance.** All sanitary facilities shall be installed and maintained in safe and sanitary condition and in accordance with applicable requirements of the Plumbing Code.

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**§ 300x-25. Group homes for recovering substance abusers**

**(a) State revolving funds for establishment of homes**

For fiscal year 1993 and subsequent fiscal years, the Secretary may make a grant under section 300x-21 of this title only if the State involved has established, and is providing for the ongoing operation of, a revolving fund as follows:

(1) The purpose of the fund is to make loans for the costs of establishing programs for the provision of housing in which individuals recovering from alcohol or drug abuse may reside in groups of not less than 6 individuals. The fund is established directly by the State or through the provision of a grant or contract to a nonprofit private entity.

(2) The programs are carried out in accordance with guidelines issued under subsection (b) of this section.

(3) Not less than \$100,000 is available for the fund.

(4) Loans made from the revolving fund do not exceed \$4,000 and each such loan is repaid to the revolving fund by the residents of the housing involved not later than 2 years after the date on which the loan is made.

(5) Each such loan is repaid by such residents through monthly installments, and a reasonable penalty is assessed for each failure to pay such periodic installments by the date specified in the loan agreement involved.

(6) Such loans are made only to nonprofit private entities agreeing that, in the operation of the program established pursuant to the loan –

(A) the use of alcohol or any illegal drug in the housing provided by the program will be prohibited;

(B) any resident of the housing who violates such prohibition will be expelled from the housing;

(C) the costs of the housing, including fees for rent and utilities, will be paid by the residents of the housing; and

(D) the residents of the housing will, through a majority vote of the residents, otherwise establish policies governing residence in the housing, including the manner in which applications for residence in the housing are approved.

**(b) Issuance by Secretary of guidelines**

The Secretary shall ensure that there are in effect guidelines under this subpart for the operation of programs described in subsection (a) of this section.

**(c) Applicability to territories**

The requirements established in subsection (a) of this section shall not apply to any territory of the United States other than the Commonwealth of Puerto Rico.

(July 1, 1944, c. 373, Title XIX, § 1925, as added July 10, 1992, Pub.L. 102-321, Title II, § 202, 106 Stat. 393.)

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## CHAPTER 15.05

### COMPREHENSIVE PLAN - PURPOSE AND SCOPE

#### 15.05.000 SCOPE

The Comprehensive Plan of the City of Edmonds consists of all of the elements set forth or incorporated in this title, including both text and maps.

#### 15.05.010 PURPOSE

The Comprehensive Plan has the following purposes:

- A. To serve as the basis for municipal policy on development and to provide guiding principles and objectives for the development of regulations.
- B. To promote the public health, safety, morals, order, convenience, prosperity and the general welfare.
- C. To anticipate and influence the orderly and coordinated development of land and building use of the city and its environs, and conserve and restore natural beauty and other natural resources.
- D. To encourage coordinated development and discourage piecemeal, spot or strip zoning and inharmonious subdividing.
- E. To facilitate adequate provisions for public services such as transportation, police and fire protection, water supply, sewage treatment, and parks.

#### 15.05.020 EFFECT OF PLAN

- A. Private Projects. All private projects requiring city review and approval shall be consistent with the Comprehensive Plan.

- B. Public Projects. No street, park or other public way, ground, place, space, or public building or structure, or utility [whether publicly or privately owned] shall be abandoned, constructed or authorized until the Hearing Examiner has reviewed and reported to the City Council on the location, extent and consistency with the Comprehensive Plan. The Hearing Examiner's report shall be advisory only. Notice of the hearing by the Hearing Examiner shall be given in the manner specified in each case by the City Council.

\* \* \*

## CHAPTER 15.10

### COMPREHENSIVE PLAN - ELEMENTS

#### 15.10.000 ELEMENTS ADOPTED

The Comprehensive Plan consists of the remaining chapters of this title, and the following additional elements of the plan which have previously been adopted and are hereby readopted by reference:

- A. Edmonds Comprehensive Policy Plan Map (adopted 1976).
- B. Edmonds Environmentally Sensitive Areas Map (adopted 1978).
- C. Comprehensive Water System Plan (as amended 1986).
- D. Engineering Report - Comprehensive Sewage Plan for the City of Edmonds, Washington, June 1965 (adopted 1966).

- E. City of Edmonds Comprehensive Parks and Recreation Plan, 1987 to 1992.  
[Ord. 2607 §3, 1987].
- F. Bicycle Paths & Trails Plan.

Repeal or modification of the text of the original ordinances or resolutions adopting and/or amending any of the foregoing plans or maps shall not affect the validity of said plans or maps which are hereby readopted. Said plans or maps subsequently may be repealed or amended by ordinance or resolution making specific reference to said maps or plans. [Ord. 2564, 1986; Ord. 2274 §3, 1982].

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- C. Comprehensive Water System Plan (as amended 1986).

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- E. City of Edmonds Comprehensive Parks and Recreation Plan, 1987 to 1992.
- F. Bicycle Paths and Trails Plan.
- G. Capital Improvements Plan (CIP) as the same exists or is hereafter amended.
- H. Transportation Improvement Plan (TIP) as the same exists or is hereafter amended.
- I. The Basin Studies of the City of Edmonds as the same are adopted or amended by the City Council.

Repeal or modification of the text of the original ordinances or resolutions adopting and/or amending any of the foregoing plans or maps shall not affect the validity of said plans or maps which hereby readopted. Said plans or maps subsequently may be repealed or amended by ordinance or resolution making specific reference to said maps or plans.

[Ord. 2781 §1, 1990; Ord. 2607 §3, 1987; Ord. 2664, 1986; Ord. 2274 §3, 1982].

(07/31/90)

#### CHAPTER 15.20

#### LAND USE

##### 15.20.000 SCOPE

Whenever there are references in this chapter to categories of land use, they shall apply to areas shown on the Comprehensive Policy Plan Map as follows:

<u>Policies</u>	<u>Map Designation</u>
Single family	Low Density Residential
Multiple residential, RM	High Density Residential
Commercial	Commercial/Business
Industrial	Industrial
Community Facilities and Utilities	Public Uses

See Chapter 15.35 for areas shown as Shoreline Uses on the map. All policies apply to areas shown as Mixed on map.

#### 15.20.005 RESIDENTIAL DEVELOPMENT

A. The City of Edmonds is unique among cities in Washington State. Located on the shores of Puget Sound, it has been able to retain (largely through citizen input) a small town, quality atmosphere rare for cities so close to major urban centers. The people of Edmonds value these amenities and have spoken often in surveys and meetings to this point. The geographical location also influences potential growth of Edmonds. Tucked between Lynnwood, Mountlake Terrace and Puget Sound, the land available for annexation and development is limited.

Living standards in Edmonds are above most, and this combined with the limited development potential, provides the opportunity for constructive policy options to govern future development. This will ensure an even better quality of life for its citizens.

Edmonds consists of a mixture of people of all ages, incomes and living styles. It becomes a more humane and interesting city as it makes room for and improves conditions for all citizens.

B. Goal. High quality residential development which is appropriate to the diverse lifestyle of Edmonds residents should be maintained and promoted. The options available to the City to influence the quality of housing for all citizens should be approached realistically in balancing economic and aesthetic consideration, in accordance with the following policies:

1. Encourage those building custom homes to design and construct homes with architectural lines which enable them to harmonize with the surroundings, adding to the community identity and desirability.
2. Protect neighborhoods from incompatible additions to existing buildings that do not harmonize with existing structures in the area.
3. Minimize encroachment on view of existing homes by new construction or additions to existing structures.
4. Support retention and rehabilitation of older housing within Edmonds whenever it is economically feasible.
5. Protect residential areas from incompatible land uses through the careful control of other types of development and expansion based upon the following principles:
  - a. Residential privacy is the most fundamental protection to be upheld by local government.
  - b. Traffic not directly accessing residences in a neighborhood must be discouraged.
  - c. Stable property values must not be threatened by view, traffic or land use encroachments.



- d. Private property must be protected from adverse environmental impacts of development including noise, drainage, traffic, slides, etc.
- 6. Require that new residential development be compatible with the natural constraints of slopes, soils, geology, vegetation and drainage.
- C. Goal. A broad range of housing types and densities should be encouraged in order that a choice of housing will be available to all Edmonds residents, in accordance with the following policies:
  - 1. Planned Residential Development. Consider planned residential development solutions for residential subdivisions.
    - a. Consider single-family homes in a PRD configuration where significant benefits for owner and area can be demonstrated (trees, view, open space, etc.).
    - b. Consider attached single-family dwelling units in PRD's near downtown and shopping centers as an alternative to multiple-family zoning.
  - 2. Multiple. The City's development policies encourage high quality site and building design to promote coordinated development and to preserve the trees, topography and other natural features of the site. Stereotyped, boxy multiple unit residential (RM) buildings are to be avoided.
    - a. Location Policies.
      - 1) RM uses should be located near arterial or collector streets.

- b. Compatibility Policies.
  - 1) RM developments should preserve the privacy and view of surrounding buildings, wherever feasible.
  - 2) The height of RM buildings that abut single family residential (RS) zones shall be similar to the height permitted in the abutting RS zone except where the existing vegetation and/or change in topography can substantially screen one use from another.
  - 3) The design of RM buildings located next to RS zones should be similar to the design idiom of the single family residence.
- c. General Design Policies.
  - 1) The nonstructural elements of the building (such as decks, lights, rails, doors, windows and window easements, materials, textures and colors) should be coordinated to carry out a unified design concept.
  - 2) Site and building plans should be designed to preserve the natural features (trees, streams, topography, etc.) of the site rather than forcing the site to meet the needs of the imposed plan.
- 3. Mobile Homes. Update design standards to ensure quality parks heavily landscaped both for screening exterior and for appearance of interior.
- D. Goal. Provide affordable (subsidized housing, if need be) for elderly, disadvantaged, disabled and low income in the proportion to population of Edmonds in accordance with the following policies:

1. The City should aggressively pursue funds to construct housing for elderly, disabled and low income. Units should be disbursed so as to blend into neighborhood and be designed to be an asset to area and pride for inhabitants. [Ord. 2527 §3, 1985.]

#### 15.20.010 COMMERCIAL LAND USE

- A. General. Past and present commercial development in the City of Edmonds has been oriented primarily to serving the needs of its citizens. It also has attempted to offer a unique array of personalized and specialty type shopping opportunities for the public. The recently completed Milltown shopping arcade is an excellent example of this type of development. It is essential that future commercial developments continue to harmonize and enhance the residential small town character of Edmonds that its citizens so strongly desire to retain. By the same token, the City should develop a partnership with business, citizens and residents to help it grow and prosper while assisting to meet the various requirements of the City's codes and policies.
- B. Goal. The Highway 99 arterial has been recognized historically as a commercial district which adds to the community's tax and employment base. Its economic vitality is important to Edmonds and should be supported. Commercial development in this area is to be encouraged to its maximum potential. All commercial development should be designed and located so that it is economically feasible to operate a business and provide goods and services to Edmonds residents and tourists in a safe, convenient and attractive manner, in accordance with the following policies:

1. A sufficient number of sites suited for a variety of commercial uses should be identified and reserved for these purposes. The great majority of such sites should be selected from parcels of land already identified in the comprehensive plan for commercial use and/or zoned for such use.
2. Parcels of land previously planned or zoned for commercial use but which are now or will be identified as unnecessary, or inappropriate for such use by additional analysis, should be reclassified for other uses.
3. The proliferation of strip commercial areas along Edmonds streets and highways and the development of commercial uses poorly related to surrounding land uses should be strongly discouraged.
4. The design and location of all commercial sites should provide for convenient and safe access for customers, employees and suppliers.
5. All commercial developments should be carefully located and designed to eliminate or minimize the adverse impacts of heavy traffic volume and other related problems on surrounding land uses.
6. Neighborhood scale commercial development (convenience stores) should be located at major arterial intersections and should be designed to minimize interference with through traffic.
7. Special consideration should be given to major land use decisions made in relation to downtown Edmonds.
- C. Policy. It shall be the stated policy of the City of Edmonds to discourage and, to the extent permitted by law, prohibit the encroachment of commercial

uses from Highway 99 into adjacent residential neighborhoods.

1. It shall be the policy of the City not to expend public funds to promote or encourage commercial encroachment through the preferential extension of City services and infrastructures.
2. Traffic control, routing and diversion shall not encourage the spread or extension of commercial use into residential neighborhoods. To the extent consistent with the public health, safety and welfare, the actions of the City shall attempt to divert and route commercial traffic from residential streets.
3. This policy statement shall not be interpreted to be a statement of prejudgmental bias with regard to any application for rezoning of any residential property to a commercial use. Each such application shall be considered on its individual merits and the applicant shall be accorded all rights guaranteed by law. It shall be the stated policy of the City that no such rezone shall be granted to permit a commercial encroachment when:
  - a. the encroachment does not conform to the Comprehensive Plan;
  - b. no changes have occurred in the character, conditions or surrounding neighborhood that would justify or otherwise substantiate the rezone request;
  - c. the proposed rezone bears no reasonable relationship to existing land uses and zoning of surrounding or nearby property; or
  - d. the relative gain to the individual property owner is outweighed by hardship imposed upon the public. [Ord. 2527 §4, 1985.]

#### 15.20.020 INDUSTRIAL LAND USE

- A. General. Interestingly, industrial development played a major role in the early development of Edmonds. Sawmills, wharves, log ponds and other wood products industries lined the Edmonds waterfront at the turn of the century. However, as time passed, Edmonds developed into a very attractive residential community and its once thriving lumber industry faded into oblivion. Today, Edmonds still retains much of its residential, small town charm despite the large amount of urban development which has occurred in and around the City during the outward expansion of the Seattle metropolitan area during the past twenty-five years.

Industrial development in the more traditional sense has not occurred in Edmonds to a significant degree since its early milltown days. Most new industry which has located in the community since the 1950's has been largely of light manufacturing or service industry nature. Some examples include furniture manufacturing, printing and publishing, electronic components assembly and health care services.

Future industrial development should be carefully controlled in order to insure that it is compatible with the residential character of Edmonds. Small scale, business-park oriented light industries and service related industries should be given preference over more intensive large scale industries. Great care should be given to carefully siting and designing all new industrial development in order to fully minimize or eliminate its adverse off-site impacts.

- B. Goal. A select number of industrial areas should be located and developed which are reasonably attractive and contribute to the economic growth and stability of Edmonds without degrading its natural or



residential living environment, in accordance with the following policies:

1. Light industrial uses should be given preference over heavy industrial uses.
2. The clustering of industrial uses in planned industrial parks should be required when site is adequate.
3. Adequate buffers of landscaping, compatible transitional land uses and open space should be utilized to protect surrounding land areas from the adverse effects of industrial land use. Particular attention should be given to protecting residential areas, parks and other public-institutional land uses.
4. All industrial areas should be located where direct access can be provided to regional ground transportation systems (major State Highways and/or railroad lines).

#### 15.20.030 COMMUNITY FACILITIES AND UTILITIES

- A. General. The provision of community facilities and utilities often plays a major role in influencing the scale, direction and character of new urban development. Although Edmonds already has its basic community facilities and utilities system in place, significant improvements and additions to these facilities and systems are expected and could have a measurable influence on new growth within the City. Therefore, it is important that any such improvements or additions be carefully coordinated with the adopted planning policies and comprehensive land use and transportation plans of Edmonds.

Community Facilities – Include all significant buildings, structures and facilities which are designed to

serve a public need. These facilities include but are not limited to, educational facilities, libraries, health care facilities, solid waste disposal facilities and transportation terminals.

Community Utilities – Include all linear distribution and collection systems which provide a basic life supporting product or service. These systems include but are not limited to, electricity, gas, water, communication, garbage collection, sanitary sewers and storm sewers.

- B. Goal. Community facilities and utilities in the City of Edmonds should be designated and located in a manner which will most efficiently and effectively serve the needs of the public and also implement the objectives of the Comprehensive Plan, in accordance with the following policies:
1. The provision of community facilities and utilities should be utilized as a tool for creating a well planned community.
  2. Community facilities and utilities should be designed, located and constructed in a manner which will preserve the integrity of Edmonds existing land forms, vegetation, drainage ways and natural systems.
  3. The existing capacity in urban utility systems should be utilized before making substantial extensions and/or expansions, except where full utilization of existing capacity would defeat other important development and environmental protection objectives.
  4. A total capacity should be provided in Edmonds urban utility system that is reasonably sized to accommodate anticipated and desired population growth. Overbuilding that would require present

residents to carry the costs of substantial, unutilized capacity in these systems should also be avoided.

5. Developers should be required to provide the maintain adequate facilities within their projects for storm drainage control. They should be encouraged to consolidate such controls in cooperation with their neighbors and the City where such consolidation results in a more efficient drainage system.
6. All storm drainage control projects should be consistent with community and regionally developed plans for dealing with this problem. The City should study the feasibility of a regional drainage program within each sub-basin of the community.
7. Surface water runoff and storm drainage facilities should be designed and utilized in a manner which protects against the destruction of private property, the disruption of natural drainage ways and the degradation of water sources and water quality. Oil separators, biofilters and similar devices should be required as necessary to pre-treat runoff prior to discharge into key water bodies.
8. Whenever possible, the provision of new utility systems should be consolidated into existing rights-of-way and easements.
9. New community facilities should be located where they will be readily accessible to Edmonds residents and will serve them conveniently and economically.
10. The development of shared community facilities among various public and institutional land users should be promoted.

11. The cooperative formulation and implementation of long-range acquisition and development plans for all community facilities and utilities by all public and institutional bodies should be strongly encouraged.
12. Community facilities and utilities development and expansion should always be compatible with surrounding land uses and consistent with the provisions of the Comprehensive Plan.
13. The extension or improvement of urban utility systems should be carefully staged in order to avoid the encouragement of poorly timed and premature land use development.
14. The City should assist private property owners in the financing of utility systems through aggressive pursuit of federal and State grants; and provide assistance for property owners wishing to develop local improvement districts.
15. Developers and business owners should be responsible for financing improvements which offset the direct impacts of their projects. The general public should assist in the provisions of facilities and utilities of general benefit to the community. [Ord. 2527 §5, 1985.]

#### 15.20.040 OPEN SPACE

- A. Generally in urban areas a lack of open space has been one of the major causes of residential blight. This lack has contributed to the movement of people from older densely developed neighborhoods to peripheral areas still possessing open areas.

Open space must be reserved now for assurance that future settled areas are relieved by significant open

land, providing recreational opportunities as well as visual appeal.

Not all vacant land in the City should be considered desirable or valuable for open space classification. Therefore, the following set of criteria-standards have been developed for determining those areas most important for this classification.

- B. Goal. Open space must be seen as an essential element determining the character and quality of the urban and suburban environment, in accordance with the following policies.
1. Undeveloped public property should be studied to determine its suitability and appropriate areas designed as open space.
    - a. No city-owned property should be relinquished until all possible community uses have been explored.
  2. All feasible means should be used to preserve the following open spaces:
    - a. Lands which have unique scientific or educational values.
    - b. Areas which have an abundance of wildlife particularly where there are habitats of rare or endangered species.
    - c. Natural and green belt areas adjacent to highways and arterials with the priority to highways classified as scenic.
    - d. Areas which have steep slopes or are in major stream drainage ways, particularly those areas which have significance to Edmonds residents as water sheds.

- e. Land which can serve as buffers between residential and commercial or industrial development.
  - f. Bogs and wetlands.
  - g. Land which can serve as buffers between high noise environments and adjacent uses.
  - h. Lands which would have unique suitability for future recreational uses both passive and active.
  - i. Areas which would have unique rare or endangered types of vegetation.
3. Open space should be distributed throughout the urban areas in such a manner that there is both visual relief and variety in the pattern of development and that there is sufficient space for active and passive recreation.

Provide views and open space in areas of high density or multiple housing by requiring adequate setback space and separation between structures.

- C. Goal. Edmonds possesses a most unique and valuable quality in its location on Puget Sound. The natural supply of prime recreational open space, particularly beaches and waterfront areas, must be accessible to the public, in accordance with the following policies:
1. Edmonds saltwater shorelines and other waterfront areas should receive special consideration in all future acquisition and preservation programs.
  2. Provide wherever possible, vehicular or pedestrian access to public bodies of water.



## 15.20.050 SIGNIFICANT AREAS

- A. General. Edmonds is one of the oldest settlements in the southwest county area. Indians made occasional use of the beach areas and later explorations were made by both British and Americans. Certain geographical areas within Edmonds have special significance because of historical, archeological, architectural, recreational, social, cultural and scenic importance. Policies should be established to identify and maintain these sites and to encourage compatible surrounding uses.
- B. Goal - Historical. Encourage the identification, maintenance and preservation of historical sites in accordance with the following policies:
1. Written narratives and visual aids should be made available for sites. This should also include providing markers and maps for identifying and visiting these sites.
  2. Compatible land uses should be made of the immediate surrounding areas.
  3. City should work with other public agencies and the local historical society to determine priorities and establish methods of public and private fundings.
  4. General identification of historical sites would include but not be limited to: Brackett's Landing, Carnegie Library Building, Anderson Home, etc.
- C. Goal - Archeological. Encourage the identification and maintenance of possible archeological sites in accordance with the following policies:
1. Written narratives and visual aids should be made available, including providing markers for identification.

2. General identification of archeological sites would include, but not be limited to: Old Indian Cemetery (vicinity of 9th and Dayton), and Indian encampment sites in the vicinity of Union Oil Dock.
- D. Goal - Architectural. Encourage the identification and maintenance of significant architectural structures in accordance with the following policies:
1. Compatible land uses should be made of surrounding areas.
  2. Encourage the identification by markers and maps for public viewing.
  3. Significant architectural structures would include, but not be limited to: Beeson Building, Carnegie Library, Dent Estate, Parmelee House, Anderson House.
  4. Additions and alternations to significant architectural buildings should conform to the style and period of the initial construction as much as possible.
- E. Goal - Recreation
1. Encourage public access to significant recreational areas.
  2. Significant recreational areas would include, but not be limited to: Puget Sound Shorelines, Lake Ballinger, University Properties, Lund's Gulch, etc.
  3. Compatible land uses should be made of surrounding areas.
- F. Goal - Social. Identify and maintain significant public and private social areas in accordance with the following policies:

1. Compatible land uses should be made of surrounding lands.
  2. Pursue public and private funding for such social areas as: Senior Center, Anderson Center, Edmonds Museum, Wade James Theater, Maplewood Rock and Gem Club House.
- G. Goal - Cultural. Identify, maintain and develop cultural facilities both public and private in the areas of drama, dance, theaters, museums, etc. in accordance with the following policies:
1. Encourage compatible land uses surrounding cultural sites.
  2. Pursue public and private funding to develop and operate such facilities.
  3. Cultural sites would include, but not be limited to: The Wade James Theater, Cascade Symphony, Anderson Center, Museum, Edmonds Theatre, etc.
- H. Goal - Scenic. Identify, maintain and enhance scenic areas through the City in accordance with the following policies:
1. Incorporate scenic and aesthetic design features into development of public projects.
  2. Preserve scenic features whenever possible in development of public projects.
  3. Scenic areas within City would include, but not be limited to: The stand of evergreens on the H.O. Hutt property, the evergreens in front of the Edmonds Historical Museum, and the "Anchor Tree" on the Echelbarger property.

#### 15.20.060 GROWTH MANAGEMENT

- A. General. Growth management policies are necessary to prevent unrestricted haphazard and undesirable growth. A community such as Edmonds with attractive natural features, a pleasant residential atmosphere and proximity to a large urban center is subject to constant growth pressures.

Edmonds' present population is 29,001. Assuming that there is no change in existing zoning, no future annexation, no change in rate of unit-construction as averaged from 1970-73, and no change in population per dwelling unit from the 1974 level, the saturation population in Edmonds by the year 2000 would fall between a minimum of 37,204 and a maximum of 42,863.

According to information contained in the River Basin Coordinating Committee Study on Growth Management citizens are now questioning whether an area must accept growth projections as inevitable. These projections are useful but are really only statistics indicating trends, not necessarily what is most desirable for the region. An extensive program of community involvement is essential in determining a meaningful, desirable growth level.

As communities across the country are attempting to deal with the growth issues, they are utilizing the comprehensive planning process in conjunction with zoning as tools to carry out their desired growth policy. Other methods which are being utilized include: building moratoriums, control of timing and location of capital improvements, acquisition of open space, historic sites, preservation and transfer of development right to supplement or even replace conventional zoning. However, techniques which have worked in one area may not work in another; solutions must be designed for a specific area. It is up

to the community to determine their desired growth level and up to the government, particularly elected officials to implement the desired policies.

- B. Goal. Growth management policies should be developed which will insure that as a residential community, Edmonds continues to be heralded as "The Gem of Puget Sound," in accordance with the following policies:

1. Decisions affecting the growth pattern of the community should be made with a maximum of citizen participation.
2. The Comprehensive Plan and Zoning Ordinance should be written and maintained in such a manner to guarantee that in the event of "Maximum Development" there are sufficient resources to insure basic community services and ample provisions made for necessary open space, parks and other recreation facilities.
3. The role of commercial and industrial enterprises, the attendant tax base and provision for consumer needs, should be considered as secondary to the residential aspect of the area rather than as the dominate activity of the community.
4. Any growth or development should strive to preserve for itself and its neighbors the following values:
  - a. Light (including direct sunlight)
  - b. Privacy
  - c. Views, open spaces, shorelines and other natural features.
  - d. Freedom from air, water, noise and visual pollution.

5. Any residential growth should be designed to promote as much as possible a balanced mixture of income and age groups.
6. Edmonds should cooperate with surrounding communities to ensure that the regional growth policy is consistent with the stated local policy.
7. The City should maintain an adequate staff to enable the implementation of the foregoing policies.

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#### CHAPTER 15.45

#### HUMAN RESOURCES

#### 15.45.000 ECONOMIC ENVIRONMENT/EMPLOYMENT

- A. General. The economic environment in the City of Edmonds appears to be sedentary. Any prospects of employment opportunities beyond small growth in the existing business appears remote.

To date the City of Edmonds appears to be the major employer in the community. The occupational analysis of the City's Affirmative Action Plan indicates that the total City work force was 141 for the period ending August 31, 1973, of which 31 were females and 7 minorities.

- B. Goal. Assure that opportunities are available in the community to engage in economic pursuits which are both beneficial and satisfying in accordance with the following policies:

1. Explore means by which economic and employment opportunities can be encouraged in the City.



2. Encourage the development of the City's capacities to forecast the evaluate the various economic development alternatives.

#### 15.45.010 HOUSING

- A. General. Although non-white and low-to-moderate income families have tended to remain in central cities such as Everett and Seattle, they are also attracted to a residential community such as Edmonds because of the safe and amenable environment.

The City adopted a fair housing ordinance in June 1968 which called for a Fair Housing Commission. The Commission was appointed on April 22, 1975, but rules of procedure have not been adopted as of this date.

The Washington State Office of Community Development has estimated "that a family in Washington state today needs an income of about \$15,000 per year to have real freedom of choice in the home ownership market." They estimate the total monthly cost of the median new house has increased by 33% between 1970 and 1973 while median family income has increased by only 11%. In Snohomish County 56% of the households with incomes under \$10,000 are paying excessive housing costs (over 25% of income).

A recent population analysis conducted by the Edmonds Planning Staff utilizing the 1970 census cites that there is an unusually large percentage of retired and elderly persons 62 and over who reside in the downtown census tract #505 and tract #504. Many of these residents pay an excessive portion of

their income or pension on rent or for increasing taxes if they own their homes.

Within the Edmonds City Limits there are 80 rental units managed by the Washington Housing Service available for senior citizens who qualify for rent subsidy. According to authorities of the Washington Housing Service there is a waiting list for these units and 59 of those desiring occupancy are senior citizens of Edmonds. As of February 1975, the Department of Public Assistance month summary cites that 127 families with Edmonds addresses were on Public Assistance and 43% of these families are renting a house. The average rent is \$125 per month excluding utilities.

There are approximately 100 disabled/handicapped citizens in Edmonds who are receiving assistance for their disabilities.

Available data suggests that a definite need exists in the City of Edmonds for a form of housing assistance and those in need should be able to stay in their own community. Many senior citizens and handicapped persons owning their own homes are unable to afford to perform minimum maintenance, thus their homes are deteriorating and their safety and comfort are in peril.

- B. Goal - Housing I - Discrimination and Fair Housing - Goal I. There should be adequate housing opportunities for all families and individuals in the community regardless of their race, age, sex, religion or economic circumstances.
- C. Goal - Housing I- Discrimination and Fair Housing - Goal 2. Insure that past attitudes do not establish a precedent for future decisions pertaining to public accommodation and fair housing in accordance with the following policy:

1. The Fair Housing Commission should communicate with the private sector to ensure that current laws related to fair housing are understood and adhered to.
- D. Goal - Housing II - Low Income, Elderly and Handicapped Housing. A decent home in a suitable living environment for each household in accordance with the following policies:
1. Encourage the utilization of the housing resources of the federal government to assist in providing adequate housing opportunities for the low income, elderly and handicapped citizens.
  2. The City should work with the Washington Housing Service and other agencies to:
    - a. Provide current information on housing resources;
    - b. Determine the programs which will work best for the community.
- E. Goal - Housing III - Housing Rehabilitation. Preserve and rehabilitate the stock of older housing in the community in order to maintain a valuable housing resource in accordance with the following policies:
1. Program should be developed which offers free or low cost minor home maintenance service to low income, elderly or handicapped persons.
  2. Building code enforcement should be utilized to conserve healthy neighborhoods and encourage rehabilitation of those that show signs of deterioration.
  3. Ensure that an adequate supply of housing exists to accommodate all households that are displaced as a result of any community action.

4. Evaluate City ordinances and programs to determine if they prevent rehabilitation of older buildings.

#### 15.45.020 HEALTH CARE

##### A. General.

1. Rest Homes - there are three rest-nursing homes serving the Edmonds Community, with a combined capacity of 320 beds. There is a need for more intermediate care facilities (those without provisions for intensive nursing care) as only one such facility exists in South County. A need of approximately 40 more beds has been estimated.
2. Hospital - There is one in Edmonds which serves all of South County and operates at 78-80% occupancy. The hospital could be expanded from its present 160 bed capacity up to 250 beds but expansion is unnecessary at present. Due to the increased demand for emergency room services, hospital officials plan to increase this facility. Demand for emergency facilities is due in part to the unavailability of doctors after hours. The hospital does outpatient, lab work, therapy, minor surgery, EKG's, etc.
3. Doctors and Trained Medical Personnel - It is recommended for urban areas that there should be one doctor for every 1500 people. Edmonds has a sufficient ratio, however, it has been recommended that doctors stagger their days off and be available some evenings. This would reduce the load at the emergency care facility of the hospital and provide desired medical service to the community.
4. Visiting Nurse Association - Nursing services to individual patients in the home. This service is

provided on a sliding scale which is related to type of care required and is covered by Medicare, private insurance, etc. Visiting nurse personnel made 917 home visits in South County last year.

5. Public Health Services - Snohomish County Health District Functions as the official health department for Snohomish County. The Health District provides a broad spectrum of services in the following areas:
  - a. Nursing Division Programs - Maternal - child health, adult health; Communicable Disease - prevention and control, etc.
  - b. Vital Statistics - Birth and death certificates, etc.
  - c. Sanitation - Septic tank permits and inspections; water testing, etc.
  - d. Environmental Health - Environmental impacts. Regulation and inspection of land fills and dumps, swimming pools, schools, water supplies, etc.
  - e. Veterinarian - Inspection of wholesale and retail food operations; animal complaints.
  - f. Laboratory Services - Tests of many different substances (e.g., water quality, milk, waste water, hemoglobin, etc.).
  - g. Clinic Services - Immunizations; V.D. exams; and TB skin tests.
6. Mental Health - There is a major shortage of funds for ongoing mental health facilities throughout the County, and there is a great need for services in the area although they are generally not demanded due to the lack of knowledge of their availability. Stevens Hospital has recently

established a psychiatric facility. Closure of state mental hospital facilities will increase the need for community mental health facilities providing out-patient services primarily.

- B. Goal. Assure that opportunities for adequate health care services are available to all citizens of Edmonds regardless of their economic circumstances in accordance with the following policies:
  1. The City should cooperate wherever possible with both state and local health administrators and private practitioners to assure and maintain an adequate health delivery system in the community.
  2. The City should consider and review the minimum health and medical care goals and policies as offered by the Regional Health Planning Agencies to determine if they address local needs.
  3. The City should communicate information to its citizens about the availability of public health services.
  4. Emphasis should be placed on preventive medicine.

#### 15.45.030 LAW AND JUSTICE

- A. General. The crime statistics in the Edmonds community are lower than the national average for the major categories: Rape, theft, murder, etc. The 1974 Police Department Report indicates that one of the most serious problems in the community is burglary by juveniles. However, there are problem areas that are not accurately reflected in categorical statistics.



1. Child abuse, technical (usually affecting younger children, i.e., abandonment, no food), and physical (beating, etc., which usually involves an adult or an older child).
2. Alcohol is cited as the #1 social problem in the community and is a major factor behind a majority of crimes committed in the community.
3. Burglary (breaking and entering) is increasing.

Representatives of the Police Department expressed a need for established community social services facilities for the purpose of temporary detention, counseling and rehabilitation for juveniles who come in contact with the law. The Snohomish Law and Justice Planning Committee have also determined that the most important problem in the juvenile justice system is the failure to provide adequate community resources for delinquent youths. The most important needs are:

1. Foster home and group living situations for delinquent youths in need of this alternative placement;
2. Educational and vocational training and counseling;
3. Adequate community based counseling services.

A juvenile diversion program has been established.

The City re-established the municipal court in January, 1975, which will make the court more accessible to the community in the future.

- B. Goal. The City, as a socially responsible agency, will administer law and justice in as fair a manner as possible, for all of its citizens in accordance with the following policies:

1. Establish effective liaison between city departments, schools, public and private agencies to identify and solve problems in the community.
2. Establish a process to review the impact of law enforcement activities in the community and provide for a high level of citizen participation in this program.
3. Encourage citizen observation and educational contacts with the municipal court in order to familiarize citizens, particularly young people, with the process.
4. Assure that police personnel are adequately trained and have access to continuing professional education.

#### 15.45.040 CULTURAL FACILITIES

- A. General. Existing cultural facilities in the City of Edmonds can be divided into two categories:

1. Those funded, supported and maintained by private groups and organizations such as Wade James Theatre, Art Gallery, Gallery North, etc., and
2. Public facilities such as Sno-Isle Regional Library, Historical Museum, etc.

Because of community emphasis on both the performing and visual arts, community housing for such events becomes increasingly important to the citizens of Edmonds. An adequate public facility for plays, concerts, lectures and art shows is non-existent in the City of Edmonds. In addition, space owned by the City is limited for meetings, community events, etc.

The City has recently appointed a seven member Civic Arts Commission to encourage cultural and artistic activities.

- B. Goal. The existing interest for both the performing and visual arts should be maintained and enhanced in accordance with the following policies:
  - 1. Areas of the City which are most suitable for a cultural facility or cultural usage should be identified;
  - 2. The City administration should take full responsibility for providing adequate facilities to house the cultural events in the community.
- C. Goal. Encourage formulation of programs which will develop a sense of cultural awareness in all segments of the community in accordance with the following policy:
  - 1. The Arts Commission should work with the Edmonds School District and with all educational entities, to develop cooperative programs related to arts and other cultural activities.

#### 15.45.050 EDUCATION

- A. General. The educational facilities within the city limits are adequate for its citizens at this time and do allow for some growth.
- B. Goal. There should be an open and forthright flow of information and communication between City officials and the School District as well as cooperation on all levels between these two agencies in accordance with the following policies:
  - 1. The City and School District must keep each other apprised of their intentions in regard to

educational facilities already closed or slated for closure in the near future.

- 2. Greater utilization of school facilities by the community is a concept which should be explored.
- 3. The School District and the City should work together on cultural and recreational programs to prevent overlapping of services and encourage complementary programs.

#### 15.45.060 SOCIAL SERVICES

- A. General. It has become evident that Edmonds needs some forms of social services. There is a need for receiving homes for children under the age of 18 who need temporary shelter and perhaps two or three group homes to accommodate such people as the mentally retarded and dependent child.

Edmonds is also in need of other types of agencies such as a drug treatment and/or alcohol abuse treatment center and counseling services.

- B. Goal. The community should take the responsibility to assure accessibility to social service facilities for citizens who are in need of them in accordance with the following policies:
  - 1. The City should encourage its residents to participate in the receiving home program set up by the Department of Social and Health Services to provide temporary accommodations for children under 16 years of age.
  - 2. The City should make provisions in the zoning code to govern placement and operation of group homes and other social service facilities:
    - a. The ordinance should define the various types of social agencies, group homes, foster

homes, receiving homes, rehabilitation centers, etc., and designate what type of services will be allowed within the City.

- b. Edmonds residents should be made aware when facilities are proposed within a neighborhood by appropriate notification procedures.
  - c. Agencies which wish to locate within the City should clearly indicate the kind of service to be provided.
3. Because of the number of senior citizens in the community, the City should continue to support the South County Senior Center programs.

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TITLE 16  
ZONE DISTRICTS

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CHAPTER 16.00  
ZONE DISTRICTS - PREFACE AND PURPOSE

16.00.000 TITLE

Titles 16 and 17, of the Edmonds Community Development code, may be referred to as the Zoning Ordinance.

16.00.010 PURPOSES

In addition to the purposes stated in Section 16.05.010 for the Comprehensive Plan, the Zoning Ordinance has the following purposes:



- A. To assist in the implementation of the adopted Comprehensive Plan for the physical development of the City by regulating and providing for existing uses and uses planned for the future as specified in the Comprehensive Plan.
- B. To protect the character and the social and economic stability of residential, commercial, industrial and other uses within the City, and to ensure the orderly and beneficial development of these uses by:
  - 1. Reserving and retaining appropriate areas for each type of use;
  - 2. Preventing encroachment into these areas by incompatible uses; and
  - 3. By regulating the use of individual parcels of land to prevent unreasonable detrimental effects of nearby uses.

#### 16.00.020 APPLICABLE TO OTHER TITLES

All uses in every zone district are subject to the General Zoning Regulations of Title 17 and to applicable regulations and policies contained in other titles of the Community Development Code.

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### CHAPTER 16.10 RESIDENTIAL ZONES - PURPOSES

#### 16.10.000 PURPOSES

The general purposes of the Residential, or R, zones are:

- A. To provide for areas of residential uses at a range of densities consistent with public health and safety and the adopted Comprehensive Plan.
  - B. Any growth or development should strive to preserve for itself and its neighbors the following values:
    - 1. Light (including direct sunlight).
    - 2. Privacy.
    - 3. Views, open spaces, shorelines and other natural features.
    - 4. Freedom from air, water, noise and visual pollution.
  - C. To provide for community facilities which complement residential areas and benefit from a residential environment.
  - D. To minimize traffic congestion and avoid the overloading of utilities by relating the size and density of new buildings to the land around them, the capacity of nearby streets, and the availability of utilities.
  - E. To protect residential uses from hazards and nuisances, such as fire, explosion, noxious fumes and noise, odor, dust, dirt, smoke, vibration, heat, glare, and heavy truck traffic, which may result from other, more intense, land uses.
-

CHAPTER 16.20  
RS - SINGLE-FAMILY RESIDENTIAL

16.20.000 PURPOSES

The RS zone has the following specific purposes in addition to the general purposes for residential zones of Sections 16.00.010 and 16.10.000:

- A. To reserve and regulate areas primarily for family living in single-family dwellings.
- B. To provide for additional non-residential uses which complement and are compatible with single-family dwelling use.

16.20.010 USES

- A. Permitted Primary Uses.
  - 1. Single-family dwelling units.
- B. Permitted Secondary Uses.
  - 1. Foster homes.
  - 2. Home occupation, subject to the requirements of Chapter 20.20.
  - 3. The renting of rooms without separate kitchens to one or more persons.
  - 4. The keeping of three or fewer domestic animals.
  - 5. The keeping of horses, subject to the requirements of Chapter 5.05.
  - 6. The following accessory buildings:
    - a. Fallout shelters.
    - b. Private greenhouses covering no more than five percent of the site.

- c. Private stables.
  - d. Private parking for no more than five cars.
  - e. Private swimming pools and other private recreational facilities.
- 7. Private residential docks or piers.
- 8. Family day care in a residential home.
- C. Primary Uses Requiring a Conditional Use Permit.
  - 1. Limited community facilities, located on arterial streets only, including only the following: elementary schools, nursery schools, fire stations, electric substations, pumping stations, water storage, libraries, churches, parks, recreation facilities and bus stop shelters.
- D. Secondary Uses Requiring a Conditional Use Permit.
  - 1. Mini-day care facilities and preschools.
  - 2. Guest house.
  - 3. Amateur radio transmitting antenna.
  - 4. Accessory dwelling units.

[Ord. 2673 §1, 1988; Ord. 2605 §1, 1987; Ord. 2458 §1, 1984; Ord. 2352 §8, 1983; Ord. 2283 §1, 1982.]

16.20.020 SUBDISTRICTS

There are established five subdistricts of the RS zone in order to provide site development standards for areas which differ in topography, location, existing development and other factors. These subdistricts shall be known as the RS-6 zone, the RS-8 zone, the RS-12 zone, the RSW-12 zone, and the RS-20 zone.

16.20.030 TABLE OF SITE DEVELOPMENT STANDARDS

SUB DIS- TRICT	MINI- MUM LOT AREA (Sq. Ft.)	MINI- MUM LOT WIDTH	MINI- MUM STREET SETBACK	MINI- MUM SIDE SET- BACK	MINI- MUM REAR SET- BACK	MAXI- MUM HEIGHT	MAXI- MUM COVER- AGE (%)	MINIMUM PARKING SPACES
RS-20	20,000	100'	25'	35' & 10'	25'	25'	35%	1
RS-12	12,000	80'	25'	10'	25'	25'	35%	1
RSW-12	12,000	--	15'	10'	35'	25'	35%	1
RS-8	8,000	70'	25'	7 1/2'	15'	25'	35%	1
RS-6	6,000	60'	20'	5'	15'	25'	35%	1

See Chapter 17.50 for specific parking requirements.

35' total of both sides, 10' minimum on either side.

Lots must have frontage on the ordinary highwater line and a public street or access easement approved by the Hearing Examiner.

#### 16.20.040 SITE DEVELOPMENT EXCEPTIONS

- A. Average Front Setback. If a block has residential buildings on more than one-half of the lots on the same side of the block, the owner of a lot on that block may use the average of all the setbacks of the existing residential buildings on the same side of the street as the minimum required front setback for the lot.
- B. Eaves and Chimneys. Eaves and chimneys may project into a required setback not more than 30 inches.
- C. Porches and Decks. Uncovered and unenclosed porches, steps, patios, and decks may project into a required setback not more than one-third of the required setback, or four feet, whichever is less, provided that they are no more than 30 inches above ground level at any point.
- D. Setback Adjustments. Chapter 20.50 contains a procedure for adjusting distances and locations in special situations.
- E. Corner Lots. Corner lots have no rear setback; all setbacks other than the street setbacks shall be side setbacks.
- F. Docks, Piers, Floats.
  1. Height. The height of a residential dock or pier shall not exceed five feet above the ordinary high water mark. The height of attendant pilings shall



not exceed five feet above the ordinary high water mark or that height necessary to provide for temporary emergency protection of floating docks.

2. Length. The length of any residential dock or pier shall not exceed the lesser of 35 feet or the average length of existing decks or piers within 300 feet of the subject dock or pier.
3. Width. The width of any residential dock or pier shall not exceed 25% of the lot width when measured parallel to the shoreline.
4. Setbacks. All residential docks or piers shall observe a minimum 10 foot side yard setback from a property line or a storm drainage outfall. Joint use docks or piers may be located on the side property line, provided that the abutting waterfront property owners shall file a joint use maintenance agreement with the Snohomish County Auditor in conjunction with, and as a condition of, the issuance of a building permit. Joint use docks or piers shall observe all other regulations of this subsection.
5. Number. No lot shall have more than one dock or pier or portion thereof located on the lot.
6. Size. No residential dock or pier shall exceed 400 square feet.
7. Floats. Offshore recreational floats are prohibited.
8. Covered Buildings. No covered building shall be allowed on any residential dock or pier. [Ord. 2605 §2, 1987].

#### 16.20.050 SITE DEVELOPMENT STANDARDS – ACCESSORY BUILDINGS

- A. General. Accessory buildings shall meet all of the standards of Section 16.20.030 except as specifically provided in this section.
- B. Height. Height shall be limited to 15 feet, except for amateur radio transmitting antennas.
- C. Rear Setbacks. The normally required rear setback may be reduced to a minimum of five feet for accessory buildings covering less than 600 square feet of the site.
- D. Satellite Television Antenna. The following regulations shall apply to the installation of a satellite television antenna:
  1. General. Satellite television antennas must be installed and maintained in compliance with the Uniform Building and Electrical Codes as the same exist or are hereafter amended. A building permit shall be required in order to install any such device.
  2. Setbacks. In all zones subject to the provisions contained herein, a satellite television antenna shall be located only in the rear yard of any lot. In the event that no usable satellite signal can be obtained in the rear lot location or in the event that no rear lot exists as in the case of a corner lot, satellite television antennas shall then be located in the side yard. In the event that a usable satellite signal cannot be obtained in either the rear or side yard, then a roof mounted location may be approved by the staff provided, however, that any roof mounted satellite antenna shall be in a color calculated to blend in with existing roof materials and, in the case of a parabolic, spherical or dish antenna shall not exceed

nine (9) feet in diameter unless otherwise provided for by this section. In no event shall any roof mounted satellite television antenna exceed the maximum height limitations established by this section.

3. Aesthetic. Satellite television antennas shall be finished in a non-garish, non-reflective color and surface which shall blend into its surroundings. In the case of a parabolic, spherical or dish antenna, said antenna shall be of a mesh construction.
4. Size and Height. Maximum size for a ground mounted parabolic, spherical or dish antenna shall be twelve (12) feet in diameter. No ground mounted antenna shall be greater than fifteen (15) feet in height unless otherwise approved for waiver as herein provided. Roof mounted satellite television antennas shall not exceed the lesser of the height of the antenna when mounted on a standard base provided by the manufacturer or installer for ordinary operation of the antenna or the height limitation provided by the zoning code.
5. Number. Only one satellite television antenna shall be permitted on any residential lot or parcel of land. In no case shall a satellite television antenna be permitted to be attached to a portable device for the purpose of relocating the entire antenna on the property in order to circumvent the intentions of this section.
6. Technological impracticality: basis for waiver. In the event that the strict application of the provisions of this zoning code would make it impossible for satellite television antenna upon any lot in the City, to receive a usable satellite signal, or in the event that the property owner believes that

alternatives exist which are less burdensome to adjacent property owners, the property owner may make application to the Hearing Examiner for a waiver from these provisions. The Hearing Examiner may grant such a waiver upon findings that either:

a. Technological impracticality:

- 1) Actual compliance with the existing provisions of the City's zoning ordinance would prevent the satellite television antenna from receiving a usable satellite signal, and
- 2) The alternatives proposed by the property owner constitute the minimum necessary to permit acquisition of a usable satellite signal by the satellite television antenna.

In granting the waiver, the Hearing Examiner is ordered to impose such conditions as may be necessary to place the minimum burden on adjacent property owners, such conditions may include but are not limited to requirements for screening and landscaping, review of the color and reflectivity of the proposed satellite television antenna, and any other reasonable restriction consistent with the intent of the City Council that this waiver be used only as the minimum necessary to permit the satellite television antenna to acquire a usable satellite signal while preserving the aesthetic harmony of the community. In exercising the power herein granted, the Hearing Examiner is instructed to preserve the technical operation of the satellite television antenna in order that it may secure a usable

satellite antenna while imposing such conditions as may be necessary to have that antenna blend into its surroundings.

- b. Less burdensome alternatives. The Hearing Examiner is also authorized to consider the application of property owners for waivers consistent with the provisions of subsection (a) above without requiring a finding that no usable satellite signal can be acquired when the applicant establishes that the alternatives proposed by the applicant are less burdensome to the abutting property owners than the requirements imposed by the provisions of this section.
- c. The application fee and notification for the consideration of the waiver shall be the same as that provided for processing a variance.
- d. In the event that an applicant for waiver is also obligated to obtain Architectural Design Review, the Architectural Design Board shall defer to the Hearing Examiner. The Hearing Examiner may, at his/her discretion request Architectural Design Board review and comment in order that a required screening and landscaping may be integrated into site and landscaping plans. No additional fee shall be required of the applicant upon such referral. [Ord. 2526 §3, 1985; Ord. 2268 §1, 1982.]

## CHAPTER 16.30

### RM - MULTIPLE RESIDENTIAL

#### 16.30.000 PURPOSES

The RM zone has the following specific purposes in addition to the general purposes for residential zones of Section 16.00.010 and 16.10.000:

- A. To reserve and regulate areas for a variety of housing types, and a range of greater densities than are available in the single-family residential zone, while still maintaining a residential environment.
- B. To provide for those additional uses which complement and are compatible with multiple residential uses.

#### 16.30.010 USES

##### A. Permitted Primary Uses.

- 1. Multiple dwellings.
- 2. Single-family dwellings.
- 3. Retirement homes.
- 4. Boarding houses and rooming houses.
- 5. Housing for the elderly in accordance with the requirements of Chapter 20.25.
- 6. Bus stop shelters.

##### B. Permitted Secondary Uses.

- 1. All permitted secondary uses in the RS zone, if in conjunction with a single-family dwelling.
- 2. Home occupations, subject to the requirements of Chapter 20.20.



3. The keeping of one domestic animal.
4. The following accessory uses:
  - a. Private parking.
  - b. Private swimming pools and other private recreational facilities.
  - c. Private greenhouses covering no more than five percent of the site in total.

C. Primary Uses Requiring a Conditional Use Permit.

1. Offices.
2. Community facilities, including buildings used for community activities and services, and operated by public, quasi-public or nonprofit agencies or groups, such as:
  - a. Schools, colleges, universities.
  - b. Preschools, day care centers.
  - c. Hospitals, convalescent homes, rest homes, sanitariums.
  - d. Churches, temples, synagogues.
  - e. Fire houses, police stations.
  - f. Electric substations, pumping stations, water storage, drainage facilities, transmitting and receiving antennas.
  - g. Parks, playgrounds, pools, golf courses, tennis clubs, lodges.
  - h. Museums, libraries, art galleries, zoos, aquariums, planetariums.
  - i. Group homes, halfway houses, counseling centers.

D. Secondary Uses Requiring a Conditional Use Permit.

1. Family day care homes.
2. Mini-day care facilities, provided that:
  - a. Mini day care facilities shall not be operated from or within a multiple family dwelling unit or combination of units, but
  - b. A permit may be issued for a mini day care facility to be operated in a separate, non-residential portion of a multi-family residential dwelling structure operated primarily for the benefit of the residents thereof.

[Ord. 2673 §2 (1988); Ord. 2458 §2, 1984; Ord. 2283 §3, 1982; Ord. 2283 §2, 1982.]

16.30.020 SUBDISTRICTS

There are established three subdistricts of the RM zone, in order to provide site development standards for areas which differ in topography, location, existing development and other factors. These subdistricts shall be known as the RM-1.5, RM-2.4, and RM-3 zones.

# 16.30.030 SITE DEVELOPMENT STANDARDS

## A. Table.

SUB DIS- TRICT	MINIMUM LOT AREA PER DWELLING UNIT <sup>4</sup> (Square feet)	MINI- MUM SIDE SET- BACK		MINI- MUM REAR SET- BACK	MAXIMUM HEIGHT <sup>1,5</sup>	MAXIMUM COVER- AGE (%)	MINIMUM <sup>3</sup> PARKING (Spaces per unit)
		MINIMUM STREET SETBACK	MINI- MUM SIDE SET- BACK				
RM-1.5	1,500	15'	10'	15'	25'	45%	2
RM-2.4	2,400	15'	10'	15'	25'	45%	2
RM-3	3,000	15' <sup>2</sup>	15' <sup>2</sup>	15'	25'	45%	2

<sup>1</sup> Roof only may extend five feet above the stated height limit if all portions of the roof above the stated height limit have a slope of 4" in 12" or greater.

<sup>2</sup> RS setbacks may be used for single family homes on lots of 10,000 sq. ft. or less in all RM zones.

<sup>3</sup> See Chapter 17.50 for specific parking requirements.

<sup>4</sup> See definition of townhouse.

<sup>5</sup> Maximum height for accessory structures if 15'.

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B. Signs and Design Review. See Chapter 20.10 and 20.60 for regulations.

C. Location of Parking. No parking spaces may be located within the street setback. [Ord. 2559, 1986; Ord. 2424, 1984].

## 16.30.040 SITE DEVELOPMENT EXCEPTIONS

- A. Housing for the Elderly. Housing projects for the elderly are eligible for special parking and density provisions. See Chapter 20.25.
- B. Setback Adjustments. Chapter 20.50 contains a procedure for adjusting setback distances and locations in special situations.
- C. Satellite Television Antenna. Satellite television antennas shall be regulated as set forth in Section 16.20.050 and reviewed by the Architectural Design Board.
- D. Setback Encroachments. Eaves and chimneys may project into a required setback not more than 30 inches. Uncovered and unenclosed porches, steps, patios, and decks may project into a required setback not more than one-third (1/3) of the required setback, or four feet, whichever is less, provided that they are no more than 30 inches above the ground level at any point.
- E. Corner Lots. Corner lots shall have no rear setback; all setbacks other than the street setbacks shall be side setbacks. [Ord. 2559, 1986; Ord. 2526 §4, 1985.]

CHAPTER 16.40  
BUSINESS AND COMMERCIAL ZONES - PURPOSES

16.40.000 PURPOSES

The general purposes of the Business and Commercial (B or C) zones are:

- A. To provide for areas for commercial uses offering various goods and services according to the different geographical areas and various categories of customers they serve.
- B. To provide for areas where commercial uses may concentrate for the convenience of the public and in mutually-beneficial relationships to each other.
- C. To provide for residential uses, community facilities and institutions which may appropriately locate in commercial areas.
- D. To require adequate landscaping and off-street parking and loading facilities.
- E. To protect commercial uses from hazards such as fire, explosion and noxious fumes, and also nuisances created by industrial uses such as noise, odor, dust, dirt, smoke, vibration, heat, glare and heavy truck traffic.

CHAPTER 17.00  
ADMINISTRATION

17.00.000 APPLICABILITY

All provisions of this title apply throughout the city, with no variation by zone district, unless otherwise specified in this title.

17.00.010 ZONING MAP

The locations and boundaries of zone districts shall be as shown on that map entitled "Official Zoning Map, Edmonds, Washington" which map shall reference the zoning districts set forth in Chapter 16 (Zoning Districts). The Official Zoning Map, together with all information shown on the map, is adopted by this reference as if it were set forth in this chapter in full. The City Clerk shall keep the Official Zoning Map on file for public inspection. The map shall be attested by the Mayor and City Clerk, and may be amended pursuant to Chapter 20.40 (Rezoning).

17.00.020 BOUNDARIES

The following rules apply to interpretation of the Official Zoning Map:

- A. Established Lines. Where boundaries are shown along street lines, alley lines or lot lines, those lines are the boundaries.
- B. Other Lines. Boundaries not shown along other established lines shall be dimensioned.



- C. Vacations. When the City vacates a street or alley, the zone districts along either side shall be extended to the centerline of the vacated street.
- D. Unclassified Land. All lands not classified according to the established district classifications on the official zoning map shall be classified as RS-12, pending study, public hearing and specific classifications.
- E. Annexed Land. The zoning classification of all land annexed to the City shall be determined at the time of annexation and after two public hearings held at least thirty days apart as required by state law, except when the appropriate zoning cannot be determined without further study and/or public comment. All land annexed to the City and not simultaneously zoned shall be considered tentatively as having a zoning classification that is the nearest and most similar to the classification such property enjoyed under county zoning, pending study, public hearing and specific classifications. [Ord. 2291 §1, §2, 1982.]

#### 17.00.030 APPLICATION OF REGULATIONS

- A. Code Compliance Required. All land in the city shall be used, and all buildings shall be built, structurally altered, or moved onto a site, only in compliance with all regulations of this zoning ordinance.
- B. Setbacks – Density.
  1. Any setback, yard, minimum lot size, or open space required by this zoning ordinance for one use may not be used to meet minimum requirements of this zoning ordinance for any other use.
  2. When an existing lot is subdivided, or is the subject of a lot line adjustment, the new lot lines

will not make any existing improvements non-conforming to the regulations of this zoning ordinance.

- C. Public Structures and Uses. All public structures and uses built or altered by the city or any other public agency shall comply with this zoning ordinance. Where it is a public necessity to build, or alter, a structure or use in a location or in a manner not complying with this zoning ordinance, a variance may be considered. In this case, the action of the Hearing Examiner shall be a recommendation to the City Council.

#### 17.00.040 ENFORCEMENT

- A. Penalties. A violation of any provision of the Community Development Code or any provision of any code adopted in this code by reference shall be a misdemeanor. If a violation is committed, continued or permitted for more than one day, each day or portion of a day shall be a separate offense. A convicted person shall be punished as set forth in Chapter 5.50 (Penalties).
- B. Other Remedies. The City may begin civil or criminal action(s) to restrain and/or enjoin any violation of this code, and to obtain other injunctive or legal relief. The violator shall pay the costs of such action including reasonable City attorney fees.

#### 17.00.050 PRIOR LAND USE REGULATIONS AND MAPS

The city clerk is hereby directed to file for permanent record a copy of the following prior land use regulations and maps:

- A. That compilation entitled "City of Edmonds Land Use Regulations," published October 1, 1978, consisting of Title 12 (Zoning and Platting), and Title 20 (Sign Code), as the same has been amended through the end of the year 1980.
- B. The "Official Zoning Map, Edmonds, Washington," adopted by Ordinance No. 1074 in 1964, and as amended from time to time through the end of the year 1980.

The above referenced ordinances and zoning map are hereby superseded by the adoption of the Edmonds Community Development Code and the new Official Zoning Map, Edmonds, Washington, adopted by Section 17.00.010 herein. In the event any portion of this Community Development Code, or any map, plan, diagram, chart, code, or any other matter adopted herein by reference and/or by direct text, including but not limited to the new Official Zoning Map, Edmonds, Washington, is for any reason whatsoever held invalid or inapplicable to any person or property within the jurisdiction of the City, then that portion of the provision, map, plan, diagram, chart, text or code shall be deemed repealed and the prior applicable provisions shall be deemed revived and applicable in full force and effect as if it or they had not been previously superseded by this code. The preceding ordinances, maps, plans, diagrams, charts and codes that are so superseded and may be revived include those specifically referenced in subparagraphs A and B above, and in addition the entire Edmonds City Code as the same was in effect at the end of 1980, and all ordinances of the City of Edmonds of which it was composed as the same are on file with the city clerk.

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## CHAPTER 19.10

### HOUSING CODE

#### 19.10.000 HOUSING CODE ADOPTED

The Uniform Housing Code, 1988 Edition, as published by the International Conference of Building Officials including all appendices is hereby adopted as the "Housing Code for the City of Edmonds" subject to the amendments made herein. [Ord. 2725, 1989; 2574 Section 2, 1986.]

#### 19.10.010 CONTINUING VIOLATION

Maintenance of equipment which was unlawful at the time it was installed and which would be unlawful under this code if installed after the effective date of this code, shall constitute a continuing violation of this code and the preceding code under which it was initially unlawful.

CHAPTER 21.00  
DEFINITIONS - GENERAL

21.00.000 GENERAL

- A. Normal Meanings. For the purpose of the Community Development Code, all words used in the Code shall have their normal and customary meanings, unless specifically defined otherwise in this code.
- B. Rules
1. Words used in the present tense include the future.
  2. The plural includes the singular, and vice versa.
  3. The words "shall" and "may not" and "no — may" are mandatory.
  4. The word "may" indicates that discretion is allowed.
  5. The word "used" includes "designed, intended or arranged" to be used.
  6. The masculine gender includes the feminine and vice versa.
  7. Distances shall be measured horizontally unless otherwise specified.
  8. The word "building" includes a portion of a building or lot.
- C. Adopted Codes. Where a code or codes have been adopted by reference or incorporation which may contain a definition or definitions conflicting with those set forth in this Chapter, for the purpose of that particular referenced or incorporated code, and only that code, the definition therein shall prevail.

- D. Cross References. Sections which make only cross-reference to another term are not intended to be synonymous with the other term, but are only intended to serve as a finding aid to the other term unless specifically stated to mean the same.

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CHAPTER 21.30  
"F" TERMS

21.30.010 FAMILY

Family means an individual or two or more persons related by genetics, adoption, or marriage, or a group of five or fewer persons who are not related by genetics, adoption, or marriage and none of whom are wards of the court unless such wards are related by genetics, adoption, or marriage to all other members of such group living together in a dwelling unit.

21.90.080 SINGLE FAMILY DWELLING (UNIT)

Single family dwelling (and Single Family Dwelling Unit) means a detached building used by one family, limited to one per lot.